

INTRODUCTION

The New South Wales (NSW) maritime community, as it emerged during the period 1821-1850, was a lively, dynamic organism. This community consisted of mariners and merchants, shipowners and shipbuilders, shipping agents and marine insurers, seamen and labourers and a host of others engaged in service industries or as government officials regulating and monitoring the industry.¹ It provided a cosmopolitan vibrancy to what may otherwise have remained a small, sombre convict settlement in the remote reaches of the world. Even in the mid-nineteenth century the arrival of a ship was the cause for excitement, bringing fresh news, new settlers or precious cargo. The community also attracted some of the most sophisticated and daring businessmen of the British Empire. What unique opportunities attracted such a lively and dynamic group of men and their families to a small, remote colony, offering few of the facilities and comforts available in their homelands? How did they adapt to their new surroundings, and the challenges it imposed?

Frank Broeze, examining Australian maritime history up to 1989, suggested that the maritime community “remained concealed” from the “mainstream of historiography”.² He concluded that “shipowners and their business management and political activities” were among those neglected aspects of Australian maritime history.³ This thesis discusses the development of the commercial maritime industry in NSW between 1820 and 1850. It examines the strengths and weaknesses of the industry, and the range of business strategies utilised to take advantage of opportunities while minimising business risks. It specifically focuses on shipbuilders and investors in the local shipping industry. In this sense it is as much a business and social history as it is a maritime history.

¹ Throughout this thesis the terms “mariner” will be used to refer to the class of ship’s officer (including Shipmaster, Commander, or Captain) and ranked Officers (from Chief to Third or Fourth Mate), while the term “seaman” will be used to describe all other members of the ship’s crew (including Able and Ordinary Seamen, Boys, Apprentices and others), unless more specifically identified.

² Frank Broeze, ‘From the Periphery to the Mainstream: The Challenge of Australia’s Maritime History’, *The Great Circle*, Vol. 11, 1989, p.2.

³ *Ibid* p.2.

Inspiration for this thesis arose from my personal research into family history. This research was heavily dependent on archival records. Thus my introduction to maritime history came through examining early NSW births, deaths and marriage records, official shipping records (maintained by the Naval Office and later by NSW Customs), Muster and Census rolls, the NSW Colonial Secretary's Correspondence and "Blue Books," and NSW Legislative Council Votes and Proceedings.⁴ Additional sources included limited additions of calendars and street directories, old parish maps, and a number of ship journals and logbooks, and most of all a very time-consuming but fascinating perusal of newspaper archives.⁵ I quickly developed an appreciation for both the value and limitations of this material.

Prior to the mid-1970s Australia's maritime history was not extensively explored.⁶ A few historians, namely Ian Nicholson and J.S. Cumpston, had begun to compile lists of shipping arrivals and departures, but had hardly attempted to analyse this data.⁷ Over the next two decades similar lists have been added to the collection, filling the gaps in times and locations.⁸ While these lists may be useful as directories or indexes, they are little more than suggestive of the volume of shipping activity, and provide few clues as to their purpose and value. As Rhys Richards and Jocelyn Chisholm

⁴ For details of the above-mentioned sources refer to the appropriate sections of the bibliography.

⁵ *Ibid.*

⁶ Rare exceptions are J.H. Watson, 'The Mercantile Marine: Its Contribution to Australian History', *Australian Historical Journal and Proceedings*, Part VI, Vol 3, 1910, pp.227-257; T. Dunbabin, *Sailing the World's Edge*, London, 1931; and Robert McNab, *The Old Whaling Days*, (originally published 1913), New Zealand 1975; Robert McNab, *Muri hikui: A History of the South Island of New Zealand and the Islands Adjacent and Lying to the South, from 1642 to 1835*, Wellington, 1909.

⁷ J.S. Cumpston, *Shipping Arrivals and Departures, Sydney 1788-1825*, Roebuck, Canberra 1964; I. Nicholson (comp), *Shipping Arrival and Departures, Sydney*. Vol. II (1826-1840), Canberra, 1977.

⁸ G. Bloxam & I. Nicholson (Comps), *Shipping Arrivals and Departures Vol. III 1841-1844*, Canberra, 1988; A.G.E. Jones, *Ships Employed in the South Sea Trade 1775-1861*, Vols. I & II, (Parts 1-3), Canberra 1986; I. Nicholson, *Shipping Arrivals and Departures Tasmania 1834-1842* (Vol 2) and *Gazetteer of Tasmanian Shipping 1803-1842*, Canberra 1985; I. Nicholson, *Log of Logs*, Vols. 1-3, Australian Association of Maritime History, No. 41, (no date); PA Pemberton, *Pure Merinos and Others: The "Shipping Lists" of the Australian Agricultural Company*. Australian National University Archives of Business and Labour, Canberra, 1986; Rhys Richards, 'Pacific Whaling 1820-1840: Port Visits, "Shipping Arrivals and Departures" Comparisons, and Sources', *The Great Circle*, Vol. 24, No. 1, 2002, pp. 25-39; Rhys Richards & J. Chisholm, *Bay of Islands Arrivals and Departures 1803-1840*, Wellington, N.Z. 1992; Marten A.Symes, *Shipping Arrivals to Victorian Ports: 1798-1845* Vol. I, Canberra, 1985; Marten A.Symes, *Shipping Arrivals to Victorian Ports, 1846-1855*, Vol. II, Canberra, 1987. Rhys Richard and Jocelyn Chisholm provided a much needed evaluation of the value of such lists in 'The SAD Truth about Bay of Islands Shipping 1803-1840. The Value of Shipping Arrivals and Departures Lists to the Study of Economic History', *The Great Circle*, Vol. 15, No. 1, 1993, pp. 30-35.

suggested, the lists are essentially “dry and intimidating, with a cast of thousands and no plot, as indigestible as a telephone book”.⁹

Allan Bax, in an address to the Royal Australian Historical Society in 1952, made a brief exploration of Australia’s merchant shipping between 1788-1849.¹⁰ His address, touching on maritime legislation, government regulation, the development of the overseas trade, coastal and Pacific shipping, as well as steam navigation, represented a brave but necessarily brief foray into Australia’s maritime history. It scarcely made a ripple in the smooth ocean of Australia’s historical research, whose traditional themes centred on convict settlement, pastoral activity, federation and military history.

In the same year, K.M. Dallas challenged the traditional view that NSW was solely founded as a penal colony.¹¹ He suggested that Britain’s loss of its American colonies had created an economic crisis as well as the logistical dilemma of what to do with its surplus convict population. The United States had begun to pose a threat to Britain’s economic future as a “rival mercantilist state”, trading with India, China and in northwest America. Botany Bay, he proposed, was established as a “trading post” and port from which both the China trade and the northwest American fur trade could be more readily exploited.¹² Dallas’ initial address went almost unnoticed, until it resurfaced in 1958 and 1962 thanks to Michael Roe and Geoffrey Blainey.¹³ Their claims for a re-examination of the importance of Australian maritime history met with a great deal of (sometimes acrimonious) debate about the reasons for settlement of

⁹ Rhys Richards & Jocelyn Chisholm (1993), *ibid.*, p. 30.

¹⁰ AE Bax, ‘Australian Merchant Shipping 1788-1849’, *Royal Australian Historical Society Journal*, Vol. 38, Part VI, 1952.

¹¹ KM Dallas, ‘The First Settlements in Australia: considered in relation to sea-power in world politics’, address to the *Tasmanian Historical Research Association*, 28 May 1952, No. 3, published in Ged Martin (ed.), *The Founding of Australia. The Argument about Australia’s Beginnings*, Sydney, Hale & Iremonger, 1978, pp. 39-49; KM Dallas, *Trading Posts or Penal Colonies: The Commercial Significance of Cook’s New Holland Route to the Pacific*. Devonport, Tasmania, 1999.

¹² This claim received credible support from Margaret Steven in *Trade, Tactics and Territory. Britain in the South Pacific, 1783-1823*, Melbourne, 1983, and in Robert J. King’s article: “A Regular and reciprocal System of Commerce”, Botany Bay, Nootka Sound and the Isles of Japan’, *The Great Circle*, Vol. 19, No. 1, 1997, pp. 1-29.

¹³ Michael Roe, ‘Australia’s Place in ‘the Swing to the East’, 1788-1810’, *Historical Studies: Australia and New Zealand*, Vol. 18, No.30, May 1958, p. 202; G.Blainey, *The Tyranny of Distance: How Distance Shaped Australia’s History*, Melbourne 1966.

Botany Bay.¹⁴ While that foundation debate is not of immediate relevance to this thesis, it did provide the impetus for a much closer examination of the commercial opportunities of the region from a maritime perspective. These included flax and timber for British naval yards and Australia's proximity to the East Indies, the Far East and South America.

In 1976, J. Bach, in a more extensive study of Australia's maritime history, argued that Australia always lacked a strong local maritime industry, relying instead on overseas shipping.¹⁵ Bach, at least, acknowledged the local development of "ancillary industries" such as shipbuilding, chandlery and provisioning, in response to the demands of overseas shipping, but failed to explore the value of these ancillary activities to the economy.¹⁶ The major drawback of Bach's study is its attempt to cover almost two hundred years of Australian maritime history, a task necessarily resulting in the sacrifice of detail and depth, particularly for the period covered by this thesis.

In 1988 Malcolm Tull, commenting on the paucity of Australian maritime historiography, similarly noted that Australia "lacked large-scale shipping enterprises and the business interests and archives that go with them".¹⁷ Margaret Stevens suggests that this scarcity of commercial archives was at least partly prompted by the secrecy and subterfuge with which innovative commercial enterprise was pursued in order to maintain a competitive edge.¹⁸ Developing a colonial business history for the

¹⁴ Alan Frost, 'The Choice of Botany Bay: the Scheme to Supply the East Indies with Naval Stores', *Australian Economic History Review*, Vol. 15, No. 1, March 1975, pp.1-20; Alan Frost, 'The EIC and the Choice of Botany Bay', *Historical Studies (Australia and New Zealand)*, Vol. 16, 1975, pp. 606-611; Alan Frost, *Convicts and Empire. A Naval Question 1776-1811*, Melbourne, 1980; G.C. Bolton, 'The Hollow Conqueror: Flax and the Foundation of Australian Trade', *Australian Economic History Review*, Vol. 8, March 1968, pp. 3-16; G.C. Bolton, 'Broken Reeds and Smoking Flax', *Australian Economic History Review*, Vol. IX, No. 1, March 1969, pp.64-70; Alan Atkinson, 'Whigs and Tories and Botany Bay', *Journal of the Royal Australian Historical Society*, Vol. 61, Part 5, March 1976, pp. 289-310. H.T. Fry, 'Cathay and the Way Thither': the Background to Botany Bay', in *Historical Studies*, Vol. 14, 1969-71, pp. 497-510. Reprinted in Ged Martin (ed.), (1978), *op.cit.* pp.136-149.

¹⁵ J. Bach, *A Maritime History of Australia*. Melbourne, 1976, pp. 4-5.

¹⁶ *Ibid.* p.77.

¹⁷ Malcolm Tull, 'Australian Maritime History: A Progress report'. *Journal of Maritime History*, Vol. 9, 1988, p. 79.

¹⁸ Margaret Steven, *Trade, Tactics and Territory. Britain in the South Pacific, 1783-1823*. Melbourne, 1983, preface p.X.

period 1821-1851 – a period during which “the players” were a relatively floating population - is therefore something of a challenge.

Fortunately, since Tull and Stevens made those remarks, a number of commercial records have become available. In particular, these include private business records of shipmasters, merchants, shipbuilders and others (associated with Supreme Court insolvency files, probate files and intestate files), made available through the efforts of archivists at the NSW State Records office.¹⁹ These records necessarily provide only a time-limited view of selected business activity, rather than the more detailed profile that can be obtained from, say, the collected business papers, diaries and correspondence of Edward and Alexander Riley, Robert Campbell and Robert Towns located in the archives of Mitchell Library.²⁰ Nevertheless, in the absence of more extensive business archives, they are extremely valuable. Many of the contemporary newspaper records have also become more accessible, either on microfilm or online, the latter thanks to the Ferguson Project.²¹

A number of published autobiographical and biographical studies of varying quality have also helped to bridge the gap in our knowledge and understanding. Partial or complete ship’s logs, journals, and diaries have survived, including those of shipmasters George Bayly, W.B. Rhodes and Joseph Bradley, the merchant, A.B. Spark, and the letters and journals of clergymen and missionaries such as Samuel Marsden and William Hall.²² Family historians and biographers have also made

¹⁹ A listing of the archives accessed and utilised for this thesis may be found in the bibliography.

²⁰ Alexander Riley Papers, 1804-1838, Mitchell Library Microfilm CY 901 (frames 402-573: A1208; Riley family papers, Vol. 3); Robert Campbell Papers, 1829-1861, Mitchell Library, MSS 2129; Robert Towns Papers, Z Vol. Mitchell Library MSS 1279/2 (CY Reel 2648), 1829-1887.

²¹ The Ferguson Project, a cooperative digitalisation project between the Australian Research Council, the University of Sydney, NSW State Library, National Library of Australia and Monash University Library, has re-published of a large number of periodicals from 1834-1855 on the Internet.

²² George Bayly, *A Life on the Ocean Wave: The Journals of Captain George Bayly 1824-1844*. Stratham & Erickson, Melbourne, 1998; Captain W.B. Rhodes, *The Whaling Journal – Barque Australian of Sydney 1836-1838* (Introduction and Notes by CR Straubel), Christchurch, circa 1954; Joseph Bradley, *A Nine Months’ Cruise in the “Ariel” Schooner from San Francisco in Company with the “Wanderer”, of the Royal Yaght (sic) Squadron, belonging to Benjamin Boyd, Esq.* (circa 1860, JJ Beukers, Parramatta), Whaling Primitive Series No. 2, Brisbane, 1991; G.J. Abbott & G. Little (eds.), *The Respectable Sydney Merchant. A.B. Spark of Tempe*. Sydney, 1976; Mal & Rosemary McLennon (eds), *Son of Carlisle- Maori Missionary: the Diary of CMS Missionary William Hall*. New Zealand, 2001; J.R. Elder (ed.), *The Letters and Journals of Samuel Marsden, 1765-1838*. Dunedin, 1932.

significant contributions. The focus of the *Australian Dictionary of Biography* on political and pastoral leaders unfortunately failed to include many of the notable characters that contributed to the development of maritime business in the period.²³ Even R.T. Appleyard and C.B. Schedvin's collection of business biographies, *Australian Financiers*, by attempting to cover a broad Australian business history from 1788 to the 1980s, is unable to provide more than a brief glimpse of the period under focus here.²⁴

Tull suggested that one reason for the professional neglect of maritime history was that it did "not fit neatly into the traditional divisions of historiography".²⁵ Maritime history, he argued, requires a multi-disciplinary approach, considering economic, business, social, political and technological issues. This rationale does not appear a particularly sound basis for ignoring what is a major aspect of NSW, or indeed Australian, history. Fortunately, there is within the general field of maritime history plenty of room for specialisation. This has occurred in the area of marine archaeology (including notable research by Susan Lawrence, Mark Staniforth and Michael Nash), miscellaneous studies of marine activities such as sealing and the sandalwood trade, and most commonly in the area of biographical studies of merchants or shipmasters.²⁶ The dilemma in Australian maritime historiography is striking some balance between a broad-stroke approach and specialised studies.

While this study fits within the parameters of a maritime history of Australasia, it breaks with the traditional approaches of examining the history of ships and shipping,

²³ D. Pike (ed), *The Australian Dictionary of Biography*. Vols. 1-5, Melbourne, 1990.

²⁴ R.T. Appleyard & C.B. Schedvin (eds.), *Australian Financiers. Biographical Essays*, Melbourne, 1988.

²⁵ Tull, (1988), *op.cit.*, p. 80.

²⁶ S. Lawrence & M. Staniforth (eds.), *The Archaeology of Whaling in South Australia and New Zealand*. Australian Society for Historical Archaeology and the Australian Institute for Maritime Archaeology Special Publication, No. 10, Gundaroo, 1998; Michael Nash (ed.), *Shipwreck Archaeology in Australia*, University of Western Australia, Crawley, 2007; Barbara Little, 'Sealing and Whaling in Australia before 1850'. *Australian Economic History Review*, Vol. IX, No. 2, September 1969, pp. 109-127; D.R. Hainsworth, 'Exploiting the Pacific Frontier: The NSW Sealing Industry 1800-1821'. *Journal of Pacific History*. Vol. II, 1967; D.R. Hainsworth, 'Iron Men in Wooden Ships: The Sydney Sealers 1800-1820'. *Labour History* No. 13, November 1967; D.R. Hainsworth, 'In Search of a Staple: The Sydney Sandalwood Trade 1804-1809'. *B.A.H.* Vol. 5, No. 1, February 1965; D.Shineberg, *They Came for Sandalwood: A Study of the Sandalwood Trade in the South West Pacific 1830- 1865*. Carlton, Victoria, 1967.

to concentrate on the social and economic dynamics of the development of the maritime business community. Despite Australasia's critical dependence on the sea during the period (for the transport of essential foodstuffs, the importation of manufactured goods, equipment, and luxury goods, the movement of people, the development of export commodities, as well as for the transmission of information and revenue), there still remains a serious gap in Australasian maritime business history studies particularly for the crucial period after 1821.

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Geoffrey Blainey, in *The Tyranny of Distance* (1966), suggested, "Australia is the creature of maritime enterprise".²⁷ When first published, this appeared to be a novel departure from the traditional interpretation of Australian history, which viewed Australia's progress in terms of its penal beginnings, land and gold discoveries and the spread of pastoral occupation. Blainey noted that Australia's true frontier was a maritime one, suggesting the Australian character was forged under the "tyranny" of distance. While John M.R. Young, also utilised the "frontier" approach in two studies exploring Australia's maritime commerce in the Pacific, he acknowledged the opportunities afforded by NSW' proximity to the Far East and the Pacific.²⁸ Both Blainey and Young provided a timely reminder to Australian historians that maritime history was a worthy field for exploration.

In a critique of Blainey's work, Frank Broeze dismissed the concept of a "tyranny of distance" for understanding the development of Australasian settlement as a "flawed paradigm".²⁹ Broeze observed that "distance" is at best a relative concept, in which social, economic and certainly psychological factors must be considered as much as purely geographic ones.³⁰ Nevertheless, Broeze acknowledged this tyranny in his

²⁷ G. Blainey, *The Tyranny of Distance: How Distance Shaped Australia's History*. Melbourne 1966.

²⁸ John M.R. Young, *Australia's Pacific Frontier: Economic and Cultural Expansion into the Pacific 1795-1885*, Melbourne, 1966; John M.R. Young, 'Australia's Pacific Frontier', *Historical Studies*, No. 47, October 1966.

²⁹ Frank Broeze, 'The Tyranny of Distance: a flawed paradigm', in A. Markus and M.C. Ricklefs (eds.), *Surrender Australia? Essays in the Study and Uses of History*, Sydney, 1985, p.73.

³⁰ *Ibid*, p.65. An interesting discussion of the background to the criticism of Blainey's work is Malcolm Tull, 'Australian maritime History: A Progress Report', in *Journal of Transport History*, Vol. 9, 1988, pp. 82-3.

examination of the cost of shipping in the Australian trade.³¹ My own analysis suggests that distance provided at least as many opportunities as it did risks, and therefore cannot be simply regarded as a “tyranny”. One of the expressed fears of the East India Company (EIC), for example, was the *proximity* of NSW and Norfolk Island to the Far East. Alexander Dalrymple, in a letter to the EIC’s Court of Directors in 1785 strongly opposed either settlement on the grounds that it would encourage illicit trade with Canton; create a risk of piracy in Chinese waters; and threaten the Company’s charter.³² Distance was at least as much a problem for Britain as it was for its colonies. The Southern Whale Fishery’s belated attempt to form a new charter company located at Auckland to exploit the Pacific whaling fishery in the 1840s was symptomatic of this problem.³³

David Day, in his research on the Australian Customs Department, also identified “distance” as both an opportunity for smugglers and a nightmare for the Customs Officers and Revenue Collectors.³⁴ Day, incidentally, concluded that it was under the rigorous reinforcement of Customs’ regulations and the British Navigation Laws that the “vision of the colonists sank, converting them from a maritime people to a nation of sheep farmers”.³⁵ It is an argument that certainly cannot be sustained during the period under examination, when the British Navigation Laws were in operation. As I explain in this thesis, a symbiotic relationship existed between the shipping and pastoral industries in terms of exports, imports and the movement of population. Thus Australian commercial maritime business flourished during the period 1821-1850, even while some of its number vigorously opposed or circumvented both Customs

³¹ F. Broeze, ‘The Cost of Distance: Shipping and the Early Australian Economy’, *Economic History Review*, Vol. XXVIII, 1975. pp. 582-597.

³² Dalrymple to the Court of Directors of the EIC, 13 July 1785, Papers of Alexander Dalrymple (1737-1808), NLA, MS 43, 4ff. His concern was re-iterated in his Memorial, dated 1 September 1786, subsequently published under the title “A Serious Admonition to the Public on the Intended Thief Colony at Botany Bay”, *ibid*, MS43, 2ff.

³³ Samuel Enderby’s proposal to establish the Southern Whale Fishery Company in 1843, and to secure a thirty year lease over New Zealand, is discussed in Allen Mawer, *Ahab’s Trade; The Saga of South Seas Whaling.*, Allen & Unwin, St Leonards, 1999, pp. 229 ff.

³⁴ David Day, *Smugglers and Sailors: The Customs History of Australia*, AGPL, Canberra, 1992.

³⁵ *Ibid*, p.440.

regulations and the Navigation Laws. This political struggle will be explored in greater depth in Section One.

It is therefore debatable whether the “maritime frontier” was more problematic for Great Britain or for the Australian colonies in the long term. British and British Indian and China merchants certainly found it essential to employ local agents to conduct their colonial operations, and some elements of the English Southern Whale Fishery suffered in the long-term from their early failure to appoint local agents or develop local networks. Many British merchant houses had at least one agent representing their interests in Australasia, while Australasian business interests similarly had headquarters or agencies operating in London, Calcutta, Canton, the Cape of Good Hope and Mauritius, and occasionally in the Americas and Europe.³⁶

In this thesis I argue that the commercial maritime community was particularly well placed to take advantage of local and international opportunities as well as responding effectively to new threats and challenges. They were frequent travellers not only between coastal and inter-colonial ports, but also to the Pacific, to India, Canton, Batavia and Mauritius, and to the United Kingdom.³⁷ They could more readily access and control commercial and political intelligence than others, including members of the colonial government, through their international networks and mobility. In terms of geographic factors alone, the location of a maritime community of ship owners, merchants, shipwrights and other associated service industries on the eastern seaboard of the Australian continent and Van Diemen’s Land provided distinct advantages for exploiting the resources of the Pacific, and accessing markets in Canton, India and South East Asia.³⁸ Port Jackson, Hobart, New Zealand’s Bay of Islands and

³⁶ In this context, the term “Australasia” is being employed to include those parts of the South Pacific which were considered to be part of the larger colony of NSW, including New Zealand, Norfolk Island, and the districts of “Port Phillip” and “Moreton Bay,” as well as the separate colonies of Van Diemen’s Land, South Australia and “Swan River”.

³⁷ The extent of this mobility only becomes apparent when one examines the details of passenger arrivals and departures published in contemporary newspapers, a point unfortunately missed by such compilers of shipping arrivals and departures such as A.G.L. Jones, in *Ships Employed in the South Sea Trade 1775-1861*, Vols. I & II, (Parts 1-3), Canberra 1986; Ian Nicholson, in *Shipping Arrival and Departures, Sydney*. Vol II (1826-1840) Canberra 1977; and J.S. Cumpston, *Shipping Arrivals and Departures, Sydney 1788-1825*, Canberra, 1964.

³⁸ Young, *op.cit.*, pp.5 & 91.

Hokianga, and to a lesser extent Twofold Bay and Newcastle, provided safe harbours and anchorages in which service industries flourished – wharfage and warehousing, shipwrights, sail-makers, rope-makers, stevedores, and provisioners - for the benefit of British, American, French and Russian shipping.

D.R. Hainsworth, in his study of early NSW private traders up to 1821, suggests that the development of private trading outside the Colonial Commissariat was made largely possible through the ingenuity of emancipists such as Simeon Lord in forming loose, shifting business partnerships with visiting shipmasters and supercargoes (ship-based merchant agents), and a small number of free resident investors of capital (either officials within the Commissariat, officers of the military corps, or pastoralists).³⁹ Like Blainey, Hainsworth believed the “tyranny of distance” was a major threat to the development of private trading. He also identified other major threats in the establishment of Australia’s economy such as the EIC Charter restricting movement and trade in the Pacific and Indian Oceans, the British navigational laws, British tariff policies, and the lack of a local monetary currency.⁴⁰

However, Hainsworth largely ignored the early activities of free merchants such as James Birnie, Richard Jones, Edward and Alexander Riley, as well as the partnership of Alexander Berry and Edward Wollstonecraft. The trading role of the commanders of the convict transports during this period, (partially explored by Charles Bateson in his study of convict transportation), was significant but generally overlooked by Hainsworth.⁴¹ He was also somewhat dismissive of the major contribution made by Robert Campbell Senior to the development of the colonial maritime industry.⁴² Rather, he suggested, “It was the locally-grown entrepreneurs, whether ex-convicts such as Lord, Kable and Underwood, or ex-officer officials like Macarthur and

³⁹ D.R.Hainsworth, *The Sydney Traders: Simeon Lord and His Contemporaries 1788-1821*. Sydney, 1972.

⁴⁰ *Ibid*, pp.11-16.

⁴¹ C. Bateson, *The Convict Ships, 1787-1868*, Glasgow, 1959/1985.

⁴² Campbell’s contributions as a pioneer merchant were ably explored by Margaret Steven in *Merchant Campbell 1769-1846*, MUP, Melbourne 1965, and by C.E.T. Newman in *The Spirit of the Wharf House. Campbell Enterprise from Calcutta to Canberra 1788-1930*, Sydney, 1961.

Blaxcell, who were the true pioneers of the colonial maritime industry”.⁴³ Such a conclusion fits neatly with the premise that distance was a “tyranny”. It hardly accounts for the attraction of free capital to the colony. Traditionally, historians have cast this influx of capital within the context of land settlement and pastoralism, not in terms of maritime and other business activities.

While the contributions of “locally-grown entrepreneurs” need acknowledgement, Hainsworth’s study of the development of early private trade lacks the thorough examination the subject deserves. Convicts, officers and government officials were in a sense a “captive community” with few alternatives but to exploit whatever opportunities might arise to advance their situation. They were no more “locally-grown” than the shipmasters or free merchants who developed trade in the colony.⁴⁴ The activities of shipmasters, supercargoes or resident free merchants, however, do present a different range of issues.⁴⁵ One of these is the question of why they elected to come to such a small, remote community. This same question is equally relevant to the influx of private merchant shipmasters and free merchants who arrived in NSW between 1821-1831, *before* the commencement of government-assisted and bounty immigration, and the increasing level of convict transports, had any real impact on market-demand. For all the weaknesses in Hainsworth’s analysis of the period 1788-1821, he did provide a fresh view of Australian history – that of the entrepreneur or trader. No comparable general NSW business studies have been written for the thirty-year period after 1821. My thesis seeks to fill that gap.

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One of the key reasons for this gap is, I believe, an over-reliance on official government despatches. D.R. Hainsworth was critical of the trend among Australian historians to interpret colonial history from the viewpoint of the “Government House

⁴³ Hainsworth, *op. cit.* p. 120-121. The ex-convicts and officers were in fact no more locally grown than free settlers.

⁴⁴ In fact, many of the emancipists and other early “locally-grown” traders chose to retire to their homeland, a point often overlooked.

⁴⁵ The “Supercargo”, was a supernumerary on board some merchant vessels appointed either by the shipowner, the Charterer or major consignor of cargo, whose role was to superintend the cargo and all commercial transactions relating to it.

verandah”.⁴⁶ Such an approach, he argued, was essentially flawed, as the Governors’ despatches to Whitehall were limited not only by their own sense of what was relevant, but by their sources of information, and by their desire to impress their employers by their compliance rather than their initiative. An analysis of government correspondence in fact reflects generally its very limited concerns to the daily administrative aspects of colonial government, rather than to the establishment of a broad and flourishing commercial community. The despatches rarely discuss the finer details of commercial activity, except where they impacted on the immediate business of colonial administration.

Nevertheless, there are several key aspects of business activity that would be difficult to trace without the benefit of the despatches. These include the ability to identify the use of business and political patronage at Whitehall by prospective settlers, their business and family networks, their aspirations, and their sources (and quantity) of capital investment through the system of Memorials for land grants or “special privileges”. The use of Petitions to the colonial Governors to effect personal, political and economic change provides a source for identifying mercantile interests, networks and attitudes. While some of the Governors’ attitudes were sometimes capricious, narrow-focussed, biased or naïve, their correspondence with Whitehall occasionally provides a window through which we may glimpse commercial activity beyond Government House.

In this thesis, I argue that commercial progress in NSW was often achieved despite local administrative regulation and British legislation and policies. While successive Governors indicated some concerns about the need to establish export industries, these were normally framed within the context of reducing the costs to central government of maintaining the colonial government, including the military and convict establishments.⁴⁷ Such narrow concerns frequently resulted in the surrender of

⁴⁶ Hainsworth (1968), *op.cit.*, p.1.

⁴⁷ Usually in annual reports to Whitehall where they identified with varying degrees of accuracy some potential staples, and briefly discussed the current state of imports and exports.

Australasian resources, such as land and coalfields, to British absentee landlords and shareholders, with long-term ramifications for colonial development.⁴⁸

The political role of local shipping and mercantile interests in effecting legislative and regulatory changes has only been partially explored by Australian historians. For informative studies of the politics of European expansion in the Pacific, especially that surrounding the British whaling industry, we are reliant on the detailed analyses by Edouard Stackpole and Margaret Stevens.⁴⁹ Unfortunately, neither of these studies examines the period beyond 1825. While C.H. Phillip's study of the political intrigues surrounding the demise of the EIC's charter is invaluable for an understanding of the British politics that also helped shape Australia's development, it neglects that Company's impact on Australian shipping and trade.⁵⁰ This impact and the political role of maritime interests in effecting legislative and regulatory changes will be explored in Section One.

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The politics of *laissez-faire* within the British Board of Trade that ultimately resulted in the dismantling of protective tariffs and the British Navigation Laws in 1849 is examined in some detail in Peter Parkhurst's *Ships of Peace* (1962) and R.W. Prouty's *Transformation of the Board of Trade* (1957).⁵¹ More recently, Sarah Palmer examined the impact of *laissez-faire* policies on the English shipping industry, and the efforts of that industry to maintain the last remnants of the protective mantle of the

⁴⁸ The decision to transfer control and "ownership" of the Newcastle coal fields to the Australian Agricultural Company, with a provision that they were to have a monopoly over Australasian coal mining, came under increasing criticism from local merchants, representing the interests of the Australian Gaslight Company and shareholders in the steamship companies, and from potential investors in a mine at Western Port from 1837 onward. *HRA*, Series 1, Vol. 19, p. 435, and note 92, p. 809 and Vol. 20, 13 June 1839, pp. 191-3 and 10 July 1839, pp. 222-3. See also Domaris Bairstow, *A Million Pounds, A Million Acres. The Pioneer Settlement of the Australian Agricultural Company*. Self-published, Cremorne, NSW 2003.

⁴⁹ E.A. Stackpole, *Whales and Destiny: The Rivalry Between America, France and Britain for the Control of the Southern Whale Fishery, 1785-1825*. Massachusetts, 1972; Margaret Steven, *Trade, Tactics and Territory. Britain in the South Pacific, 1783-1823*. Melbourne, 1983.

⁵⁰ C.H. Phillips, *The East India Company 1784-1834*. Manchester, 1961.

⁵¹ Peter Parkhurst, *Ships of Peace: A record of some of the problems which came before the Board of trade in Connection with the British mercantile marine from the early days to the year 1885*. New Malden, Surrey, 1962; and RW Prouty, *The Transformation of the Board of Trade 1830-1855: A Study of the Administrative Reorganization in the Heyday of Laissez-Faire*, London 1957.

Navigation Laws.⁵² David Day has suggested, on the other hand, that the navigation laws were a source of tension between Australian and “imperial” shipping interests, and the former were able to use distance to their advantage in securing a relaxation of the laws.⁵³ Given the international business and family networks of those involved, the possibility of diverging interests has implications for the local business community as well as for the colonial Customs Department that will be discussed in Section One.

Australian historians’ main contributions in this field have come from labour historians G.R. Henning and Michael Quinlan, who examine the political activity of the Australian shipping industry in relation to the Merchant Seamen’s laws.⁵⁴ G.R. Henning, discussing the practice of “crimping,” explored the political role of local shipping and mercantile interests in effecting local changes to British legislation related to the regulation of seamen.⁵⁵ Henning suggested that the overseas shipping interest formed a “collusive monopsony” to control the market price of labour, which was threatened by the Act’s protection of seamen’s interests, and differential labour costs in the colony.⁵⁶ Both Henning and Michael Quinlan described the practice of crimping, a “highly organised network between watermen or “runners” and boarding house keepers or publicans,” as a source utilised by desperate shipmasters to recruit labour.⁵⁷ Conrad Dixon has suggested that in fact the “predator-victim view of crimps

⁵² Sarah Palmer, *Politics, Shipping and the Repeal of the Navigation Laws*, Manchester, 1990.

⁵³ Day, *op.cit.*, pp. 439-40.

⁵⁴ Michael Quinlan, ‘Making Labour Laws Fit for the Colonies: The Introduction of Laws Regulating Whalers in Three Australian Colonies: 1835-1855’. *Labour History*, Vol. 62, May 1992, pp.19-37; ‘Balancing Trade and Labour Control: Imperial/Colonial Tensions in Relation to the Regulation of Seamen in the Australian Colonies 1788-1865’, *International Journal of Maritime History*, Vol. 9, No.1, June 1997, pp.19-56; and ‘Regulating Labour in a Colonial Pretext: Maritime Labour Legislation in the Australian Colonies, 1788-1850’. *Australian Historical Studies*, No. 111, 1998, pp.303-324.

⁵⁵ G.R. Henning, ‘Fourpenny Dark and Sixpenny Red’, *Labour History*, No. 36, May 1984, pp. 52-71. “Crimping” was the practice of procuring seamen for captains who needed crew by agents allegedly in return for “blood money”. The practice frequently involved “poaching” crew who had signed articles of agreement with other ships. The particular piece of British legislation at issue was the “Sir James Graham Act” of 1835 (5 & 6 William IV, Cap. 19), or An Act for the further and better regulation and government of Seamen.

⁵⁶ *Ibid.* p. 53.

⁵⁷ Quinlan (1992), *op.cit.*, p. 23.

is mistaken.⁵⁸ Rather, the sailor-crimp relationship was a voluntary one. He suggests that mariners were thus able to achieve some measure of control over the labour market, a view that appears to have some validity based on the increasing opposition from local merchants and the overseas shipping interest after 1837.⁵⁹ The reality is more ambiguous, as suggested by Grace Karskens' study of The Rocks area that looks at the family and local networks in a small community.⁶⁰

Since Ralph Davis' groundbreaking study of the English shipping industry in the seventeenth and eighteenth centuries in 1962, international maritime labour history has grown exponentially.⁶¹ Labour historians have, with varying degrees of success, concentrated on the wages and conditions of seamen, and the relationship between shipmasters, officers and seamen.⁶² Two major issues arising from these studies are in the selection and nature of sources, and the impact of political bias in analysing material.⁶³ The adversarial nature of court records frequently casts seamen in the mould of troublemakers, shipmasters as tyrants, and shipowners as having a careless or callous disregard for human life. Unfortunately, it is not possible within the limitations of this thesis to extensively discuss the many issues raised, with respect to the NSW maritime community. The political activities of the local shipping interest

⁵⁸ Conrad Dixon 'The Rise and Fall of the Crimp, 1840-1914', in Stephen Fisher (ed), *British Shipping and Seamen, 1630-1960: Some Studies*. Exeter Papers in Economic History, No 16, University of Exeter, 1984, p.49.

⁵⁹ *Commercial Advertiser*, 9 & 23 February, 24 April and 1 May 1839.

⁶⁰ Grace Karskens, *The Rocks. Life in Early Sydney*, MUP, Carlton, 1997.

⁶¹ Ralph Davis, *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries*, Macmillan & Co., London 1962.

⁶² It is impossible to acknowledge all those contributing to this field here. However, one of the early contributors mainly concentrating on life at sea was Peter Kemp, *The British Sailor: A Social History of the Lower Deck*, London 1970; Charles P. Kindleberger, examined market pressures in *Mariners and Markets*, New York 1992; while Roald Kverndal provided a fresh approach in his concentration on religious missionary work in *Seamen's Missions: Their Origin and Early growth: A Contribution to the History of the Church Maritime*, Pasadena, 1986; P..Linebaugh & M..Rediker, 'The Many-Headed Hydra: Sailors, Slaves and the Atlantic Working Class in the Eighteenth Century' in C. Howell & R. Twomey (eds), *Jack Tar in History: Essays in the History of Maritime Life and Labor*. New Brunswick, 1991, pp.11-36 (originally published in *The Journal of Historical Sociology* Vol. 3, No. 3, September 1990, pp. 225-251).

⁶³ Any statistical analysis based on counting seafarers or seamen's sixpences, for instance, is notoriously fraught with dangers. See, for example, Valerie Burton, 'Counting Seafarers: The Published Records of the Registry of Merchant Seamen 1849-1913', *Mariner's Mirror*, Vol. LXXI, 1985, pp. 305-320; and R. Davis, 'Seamen's Sixpences, An Index of Commercial Activity, 1697-1828', *Economica*, Vol. XXIII, 1956, pp. 328-343. Similarly, reliance on extant court records relating to charges of desertion and mutiny, necessarily only "captures" the activities of aberrant seamen or shipmasters.

went far beyond the desire to control the labour market. Throughout the period the local shipping interest, either as individuals or as a group, also campaigned on such issues as the EIC's charter, discriminatory duties on imports and exports, warehousing, and free trade. Many had a ready forum in the form of the Sydney Chamber of Commerce, formed in July 1826, access to the Executive and Legislative Councils, the law courts, and overseas business, family and political networks. They were potentially a formidable political group.

* * *

While a number of economic historians have ventured into the field of business history, the two fields are, I argue, discreet disciplines. Traditionally, economic historians have concerned themselves with macro-economic modelling, rather than the role of individual human endeavour and the dynamics of business enterprise.⁶⁴ Alan Birch, in his brief introduction to *Wealth and Progress. Studies in Australian Business History* (1967) wrote that “the role of the entrepreneur in Australia has been largely a matter of neglect, or if not neglect, a matter of notoriety”.⁶⁵ Some valuable contributions have since been made in the area of Australian business history, including the work of Margaret Steven, Frank Broeze, David Hainsworth, G.J. Abbott and G. Nairn, and Barrie Dyster.⁶⁶ Very few have attempted to seriously analyse maritime business activity during the period 1821-1850, as the emphasis has been on land settlement, the pastoral industry, and gold discoveries. This gap is all the

⁶⁴ T.S. Ashton, ‘The Relation of Economic History to Economic Theory’, *Economica*, Vol. 13, 1946, pp. 81-96.

⁶⁵ Alan Birch and David S. Macmillan (eds.), *Wealth and Progress. Studies in Australian Business History*, Sydney, 1967, p.viii.

⁶⁶ Margaret Steven, *Merchant Campbell 1769-1846*, Melbourne 1965; and her article, ‘The Changing Patterns of Commerce in NSW 1810-1821’, *Business Archives and History (BAH)* Vol. 3, No. 2, August 1963; Frank Broeze, *Mr. Brooks and the Australian Trade: Imperial Business in the Nineteenth Century*, Carlton, Vic. 1993; his articles, ‘Foundation of Fortune: The Imperial Axis, Flower-Salting-Challis’, *The Push From the Bush*, No. 8, (1980), pp.50-74 and ‘Australia, Asia and the Pacific: the Maritime World of Robert Towns 1843-1873’, *Australian Historical Studies* No. 95, 1990, pp.221-238; D.R. Hainsworth, ‘The NSW Shipping Interest 1800-1821, A Study in Colonial Entrepreneurship’, *Australian Economic History Review* Vol. 8, No. 1 Feb 1968; G.J. Abbott & G. Little (eds), *The Respectable Sydney Merchant. A.B. Spark of Tempe*. Sydney University Press, Sydney 1976; Barrie Dyster, ‘The Rise of William Fanning and the Fall of Richard Jones’, *Journal of the Royal Historical Society*, Vol. 67, Part 4, March 1982, pp.366-374; Barrie Dyster also provided a useful insight into colonial business investment in his article, ‘Prosperity, Prostration, Prudence: Business and Investment in Sydney, 1838-1851’, in Alan Birch & DS Macmillan, (eds.), (1967), *op.cit.* pp. 51-76.

more remarkable for being a period that witnessed the arrival of a number of very enterprising free merchants, shipowners and shipbuilders.

One of the most serious gaps in our maritime historiography relates to the shipbuilding and service industries, with one of the few exceptions being Gwen Dundon's study of the Brisbane Water shipbuilders after 1829.⁶⁷ This is probably understandable given the absence of detailed business or personal records, and the difficulties in piecing together information from surviving sources. Much of their history can only be located in discreet contemporary newspaper reports and advertisements, in family records, and in insolvency, probate and other court records.⁶⁸ More recently the results of some valuable marine archaeology have extended our understanding of the nature of local shipbuilding during this period.⁶⁹

In Sections Two, Three and Five, I argue that the maritime service industries in fact were a critical component in the colony's economic health. They provided an avenue for investment, and by maintaining and supplying visiting shipping, contributed an invisible form of private revenue that evades macroeconomic measures based on export staples. This thesis describes and evaluates the business enterprise involved in providing shipbuilding and repair services, as well as other services directly connected with supplying services to merchant shipping. These services included the provision of a wide range of agency, wharfage and warehousing facilities and marine insurance.

From a social and business perspective, the colonial history of the period from 1821-1850 is of particular interest because it provides an opportunity to examine the response of private business enterprise to financial challenges. Economic historian, Sydney Butlin, claimed that the lack of a reliable source of local currency placed

⁶⁷ Gwen Dundon, *The shipbuilders of Brisbane Water New South Wales*, East Gosford, Gwen Dundon, 1997.

⁶⁸ SRNSW, Supreme Court, Registrar in Bankruptcy, *Insolvency files*, 1842-87, CGS: 13654 Series; for Probate and Intestate records refer items listed in bibliography; other Court records refer to cases involving various civil and criminal court matters heard in the NSW Vice-Admiralty, Water Police and Supreme Court jurisdictions.

⁶⁹ Michael Nash (ed.), *Shipwreck Archaeology in Australia*, University of Western Australia, Crawley, 2007.

severe financial restrictions on the growth and “shape” of the NSW colony at least up to 1851.⁷⁰ Butlin relied heavily on official NSW government and bank records in his study of monetary issues. Individual and company records also indicate a high frequency of private banking and credit transactions conducted through major Sydney, Hobart and Melbourne agencies with overseas business houses.⁷¹ C.H. Philip’s study of the EIC and Michael Greenberg and W. E. Cheong’s studies of the activities of China merchants at Macao and Canton in fact suggest a growing *international* trend toward replacement of bullion and “currency” with credit structures.⁷² A similar pattern of replacing currency and bullion with an extended credit structure emerged in both America and in Britain, as well as in India and Canton, precipitating a financial crisis in both England and many of the American States during 1824-5.⁷³ NSW was therefore not unique in its reliance on credit structures, and as a colonial dependency of Britain, was not immune to the effects of either this crisis, or the international financial crisis from 1836-1844.⁷⁴

The period under study here in fact witnessed a growing international dependence on all forms of financial credit not just confined to NSW, as traditional sources of bullion in the Americas collapsed. If the period was indeed a transitional stage, in which accounting procedures were adjusting to recording “invisible currency” and “promises”, then it would be understandable to expect as much unease and anxiety among merchants, and ship owners, as experienced by mariners and the labour force

⁷⁰ S.J. Butlin, *The Foundation of the Australian Monetary System 1788-1851*. MUP, Melbourne, 1953, Reprinted Sydney, 1968.

⁷¹ SRNSW Insolvency Papers, CGS13654, (further details in Bibliography); agency advertisements in the *Sydney Gazette* and *Commercial Advertiser*.

⁷² C.H. Philips, (1961), *op.cit.*; W.E. Cheong, *Mandarins and Merchants. Jardine Matheson & Co., a China Agency of the Early Nineteenth Century*. Scandinavian Institute of Asian Studies Monograph Series, No. 26. Curzon Press, 1979; W.E. Cheong, ‘China Houses and the Bank of England Crisis of 1825’, *Business History*, Vol. 15, No.1, January 1973, pp.56-73; Michael Greenberg, *British trade and the Opening of China 1800-1842*, Cambridge, 1951.

⁷³ Cheong, (1973), *ibid*, pp.56-73.

⁷⁴ *Commercial Advertiser*, 29 November 1837; Barrie Dyster, ‘Prosperity, Prostration, Prudence: Business and Investment in Sydney, 1838-1851’, in Alan Birch & D.S. Macmillan, (eds.), *Wealth and Progress. Studies in Australian Business History*, Sydney, Angus & Robertson, 1967, pp. 51-76; Barrie Dyster, ‘The 1840s depression revisited’, *Australian Historical Studies*, Vol 25, No. 101, 1993, pp.589-607.

generally waiting for their wages.⁷⁵ Certainly records of civil court matters during the period, suggests that the lack of currency and reliance on promissory notes and credit generally, engendered high levels of anxiety within the maritime and broader community.⁷⁶ The development of credit systems was in fact an essential adjunct of the sea trade, where shipmasters could expect to voyage long distances over extended periods, without ready access to banking facilities.

Nevertheless, the success of entrepreneurs lies in their ability to be able to manage risk and transform risks into opportunities. NSW monetary policies and failure to develop a local currency did not, I suggest, forestall economic development. Rather it encouraged entrepreneurs to shore up their regular trading activities by investing in so-called “stable commodities” - such as “bricks and mortar,” shipping, land ownership and livestock, shares in joint stock companies, and marine insurance. Many private merchants imported their own limited supplies of bullion and pounds sterling, and in the absence of a local currency were able to capitalise on these supplies, operating as private “bankers”.⁷⁷ However, in the absence of steady supplies, they came to rely on a system of mortgages and re-mortgage, liens, promissory notes and bills of exchange to fund their activities.⁷⁸ The extension of British sea trade also gave rise to the development of marine insurance, to cover the risk of loss or damage to shipping and cargo.⁷⁹ The effectiveness of these strategies will be explored in Section Four.

⁷⁵ The Sydney Chamber of Commerce was formed on 6 July 1826 during a period of great anxiety caused by a shortage of pound sterling and action to have Spanish dollars recognised as a medium in which promissory notes and bills were recognised, *HRA*, Series 1, Vol. 7, pp. 300-308, 454, 510 and 830-831.

⁷⁶ The Bank of NSW was crippled by such problems in May 1826, before being offered a rescue package from the Bank of Australasia, *ibid* p. 300-8; *Terry v Brown*, NSW Supreme Court 24 March 1834 *Sydney Gazette*, 27 March 1834.

⁷⁷ J.B. Montefiore was one of many who had the financial capacity and backing to act in this capacity. *Sydney Gazette*, 27 February 1829.

⁷⁸ The complexities of this style of business is evident from the insolvency papers of many of the merchants and shipowners who were forced into bankruptcy during the early 1840s, including Thomas Gore, Robert Dunlop, Robert Duke and the firm of John Hughes and John Hosking.

⁷⁹ D.E.W. Gibb, *Lloyds of London: A Study in Individualism*. Macmillan, London 1957; A.H. John, ‘The London Assurance Company and the Maritime Insurance Market of the Eighteenth Century’, *Economica*, Vol. 25, 1958, pp. 126-141; C.Wright & C.E. Fayle, *A History of Lloyds from the founding of Lloyd’s Coffee House to the present day*, London, 1928.

Macro-economic theory briefly triggered an interest in shipping activities connected with “staples,” such as wool, sealing, sandalwood and flax.⁸⁰ While the mystique of whaling has always sparked some attention, its evaluation as an export staple appears to have been almost overlooked.⁸¹ Many other colonial shipping activities virtually ignored to date, such as the shipbuilding, provisioning and repair industry are examined in Section Three. The activities of shipping agencies and marine insurance companies are examined in Chapters 10, and Section 4. An over-reliance on government despatches has been a significant limiting factor in the study of NSW shipping activity during the first sixty years of settlement. The broad range of shipping activities in which the local shipping community were in fact engaged suggest a much more opportunistic motif than many historians have recognised. This, I suggest, is partly an issue of methodology.

A major problem raised by Australian economic historian J. McCarty’s application of “staple theory,” and W.A. Sinclair’s economic model, in explaining Australian colonial development is simply that they are *models*, whose reliance on a limited range of statistical data has led them to bypass the importance of other staples, such as timber, and whales, to NSW economic development, in favour of wool.⁸² Macro-economic modelling ignores the importance of the human factor, particularly the entrepreneurial behaviour of merchants, shipmasters and ship owners who frequently

⁸⁰ J. McCarty “staple theory” approach to interpreting Australian development had a significant impact on the direction of historical research in maritime business history, J.W. McCarty, ‘The Staple Approach in Australian Economic History’, *BAH*, Vol. 4, No. 1, February. 1964. This interpretation came under useful scrutiny by G.R. Abbott in ‘Staple Theory and Australian Economic Growth 1788-1820’, *Business Archives and History (BAH)* Vol. 5, August 1965, pp. 142-154. D.R. Hainsworth, ‘Exploiting the Pacific Frontier: The NSW Sealing Industry 1800-1821’. *Journal of Pacific History*, Vol. II, 1967; D.R. Hainsworth, ‘Iron Men in Wooden Ships: The Sydney Sealers 1800-1820’, *Labour History*, No. 13, November 1967; D.R. Hainsworth, ‘In Search of a Staple: The Sydney Sandalwood Trade 1804-1809’, *BAH*, Vol. 5, No. 1, February 1965; D.Shineberg, *They Came for Sandalwood: A Study of the Sandalwood Trade in the South West Pacific 1830- 1865*. Carlton, Victoria 1967.

⁸¹ Allen Mawer, *Ahab’s Trade; The Saga of South Seas Whaling*, St. Leonards, 1999; E.A. Stackpole, *Whales and Destiny: The Rivalry Between America, France and Britain for the Control of the Southern Whale Fishery, 1785-1825*. Massachusetts; W.J. Dakin, *Whalemen Adventurers in Southern Waters*. Sydney 1977; Thomas Dunbabin, *Sailing the World’s Edge*. London 1931; R. McNab, *The Old Whaling Days*. (originally published 1913), 1975 New Zealand. In 1969 M.J.E. Steven briefly analysed the value of whaling exports up to 1831, compared with wool in her article ‘Exports other than Wool’, published in G.J. Abbott & N. Bede Nairn, *Economic Growth of Australia, 1788-1821*, Melbourne, 1969, pp.285-305.

⁸² McCarty, *op.cit.*; W.A. Sinclair, *The Process of Economic Development in Australia*, Melbourne, Cheshire, 1976.

focussed on short-term profit without necessarily identifying long-term consequences. In this respect, “staple theory” replicates armchair history, or the “government house verandah” approach, Hainsworth so appropriately disparaged in his study of the early Sydney traders.⁸³ Concern about the “balance of trade,” a concept that lies at the very heart of staple theory, is essentially a government role. It may well become an issue for private enterprise in the longer term, depending on both the nature and “health” of its overseas networks and the profits to be derived from its imported goods. The nature of local private entrepreneurial activity will be discussed in Chapter Four.

I argue that private enterprise seeks opportunities wherever these might occur, and develops strategies to maximise such opportunities while minimising risks. In NSW, importation of British manufactures provided one such strategy, responding to the opportunity afforded by both a growing population and an increasing number of British and foreign vessels calling at Sydney, the Bay of Islands at New Zealand, and other ports such as Newcastle and Twofold Bay, and Port Phillip for refitting, repairs and refreshment. Shipbuilding and provisioning were “value-adding” activities – using imported British steel and copper sheeting, and canvas, as well as imported grains to build, repair service and provision not only the colonies’ own fleets, but those from Britain, America and other foreign nations. These activities were, in a sense, almost “invisible” but nonetheless real exports that are difficult to quantify.

Finally, McCarty’s “staple theory” ignores the potential for profit and growth through the importation of grain, sugar, tea, flax, whale oil, sandalwood and a host of other cargoes obtainable offshore rather than on the Australian continent, either for local consumption and processing or transshipment to Great Britain or other colonies. At least until 1840, the resources of New Zealand and the Pacific were considered to be a natural extension of the colony’s own resources. The maritime industry facilitated, and developed directly, as a result of a healthy import and export industry, a point that McCarty appears to have overlooked. In fact, the period from 1821-1850 posed some significantly new opportunities and threats, arising partly from the successful elimination of tonnage regulations on shipping, and partly from the introduction of

⁸³ Hainsworth (1968), *op.cit.*, p. 1.

changes introduced as a result of John Thomas Bigge's recommendations in 1823.⁸⁴ From the 1820s, emigration to NSW developed from a mere trickle into a flood, not only changing the face of settlement but also the variety and depth of opportunities available for business investment. It was above all a period of significant change in the political and economic arena, as old mercantilist and protective trade policies in Britain were dismantled and a new *laissez-faire* approach to trade superseded them by degrees.⁸⁵

Michael Greenberg argued that the development of private British "agency houses" in China during the nineteenth century was a natural business response to "geographic distance between the origin of capital and its actual sphere of operations, and the technical differences between two levels of economy".⁸⁶ This thesis examines this proposition from an Australian perspective, and particularly examines the potential for shipmasters to make the transition from sea to land, as shipping agents and merchants. I suggest that in order to take advantage of new trading opportunities in a fledgling community, investors developed strategic infrastructures designed to minimise their level of business risk. The deployment of shipmasters and supercargoes on convict sailing ships, carrying speculative cargoes provided a relatively low-cost investment.⁸⁷ Shipmasters of convict transports and English whalers in the South Seas were particularly well placed to gain useful commercial intelligence and to develop local business networks to assist with further trade missions. However, investment in speculative cargoes was inherently risky, being dependent on market shortages for profit. Shipmasters and owners could ill afford any delays in port. The need to extend and maintain local business networks, to obtain current market information, and to control market prices through warehousing

⁸⁴ J.T. Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of NSW* (Common's Paper 136, ordered to be printed 13 March 1823; Lord's Paper 119, ordered to be printed 4 July 1823).

⁸⁵ R.W. Prouty, (1962), *op.cit.*; C.H. Phillips, (1961), *op.cit.*; S.Palmer, (1990), *op.cit.*; Margaret Steven (1983), *op.cit.*.

⁸⁶ Greenberg, *op.cit.*, p.144.

⁸⁷ Alexander Berry employed this strategy, chartering the *City of Edinburgh* for a voyage to Sydney with a valuable cargo from Cape Town in 1807, via Port Dalrymple and Hobart. See Meg Swords, *Alexander Berry and Elizabeth Wollstonecraft*. North Shore Historical Society, 1978, pp.9-13.

imported goods, became a primary goal for successful business operation in the colony.⁸⁸

Local evidence indicates that shipmasters themselves were ideally placed to establish mercantile operations, using their local knowledge, and networks established in NSW and abroad to good effect.⁸⁹ Shipmasters thus used local shipping and trading opportunities to make the transition from sea to land-based occupations.⁹⁰ In doing so they acquired the potential, as Ralph Davis suggested, for acquiring real wealth, status and political influence.⁹¹ R.C. Jarvis, R.G. Albion and Sarah Palmer observed, in relation to British and American ship-ownership, that shipmasters were one of the primary occupational groups investing in shipping.⁹² Section Two examines the occupational profile and dynamics of ship ownership in NSW, and explores the business rationale for investing in either locally built or overseas shipping. I argue that rather than ship ownership being a means of acquiring social status *per se*, local investors were entrepreneurs, acquiring shipping to access and exploit resources. Local ship-ownership was therefore an ancillary rather than primary occupation.

While the purpose of my research is to provide a study and analysis of the commercial maritime community in NSW between 1821-1850, the sea has no such boundaries.⁹³ By their very nature, maritime business interests are not parochial. Many had wide-reaching interests and networks, both inter-colonial and overseas. Even many with substantial property interests in NSW, either returned to Britain or India or settled in

⁸⁸ Newman, *op.cit.*. By establishing his warehouse at Sydney Cove, Robert Campbell Snr., representing his Calcutta-based firm, was able to store his imported trade goods releasing them at the time of higher market demand.

⁸⁹ This evidence comes from both formal and informal sources, including archived business records and newspaper reports, which will be identified and discussed in more detail later in this thesis.

⁹⁰ Among the many who used this strategy were Captain Hardiman Lister and William Salmon Deloitte.

⁹¹ Ralph Davis, *op.cit.*, p. 84.

⁹² R.G. Albion, 'Early Nineteenth Century Ship-Owning: A Chapter in Business Enterprise', *Journal of Economic History* Vol. 1, 1941, pp. 1-11.

⁹³ This thesis recognises the official definition of "NSW" as including Port Phillip (or Victoria) until 1851; Moreton Bay (or Queensland) until 1859; New Zealand until November 1840 and South Pacific islands according to the territorial jurisdiction applied by the Crown – from Cape York in latitude 10° 30' S. to Wilson's Promontory, in the latitude of 39° 12' S. and all the country inland to 129° E. longitude, and all the islands adjacent in the Pacific within those latitudes Described in the Instructions given to Governor Darling on his Commission, in December 1825, *HRA*, Series 1, Vol. 7, p. 99.

New Zealand or one of the other Australian colonies. The scope of this thesis is constrained by logistics (in terms of access, space and time) to NSW. However, in terms of its overall themes, it places NSW within its British and global context.

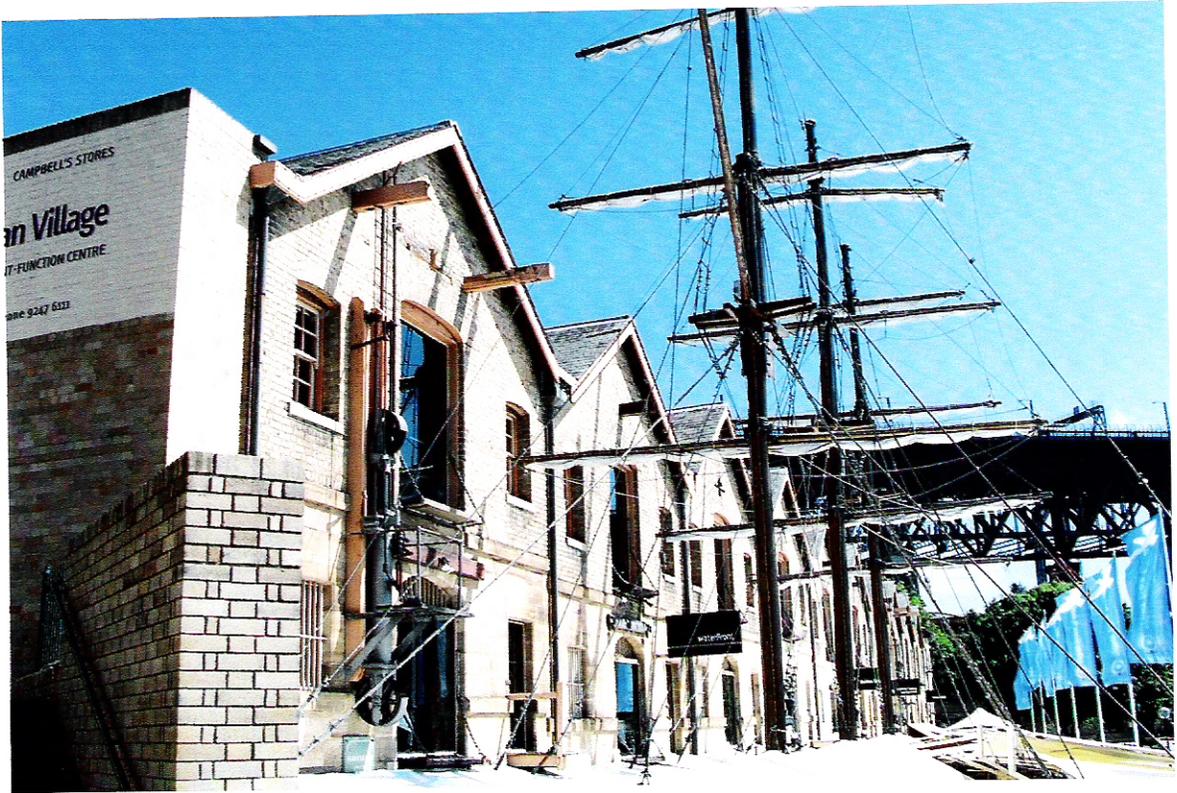


Plate 1: Sydney merchant, Robert Campbell's warehouses as they appear today.



Plate 2: Robert Campbell's Wharf, purchased by Sydney shipping agent, J.B. Metcalf.

SECTION ONE:
Regulatory Barriers

CHAPTER 1: INITIAL LEGAL AND INSTITUTIONAL BARRIERS

The first thirty years of the NSW shipping industry were straitjacketed by a combination of bureaucratic inefficiencies, political disincentives and under-capitalisation of essential infrastructure and operating costs by the British government.¹ Even before the settlement of New South Wales substantial obstacles were placed in the way of establishing a local shipbuilding industry. Great Britain was on the brink of a continental war, a war that would largely be determined by her naval capacity and ability to defend her overseas trading empire.² Two Commissions were issued to Captain Arthur Phillip, the first on 2 April 1787 enabled him to exercise sovereign naval power over the eastern section of continental Australia and adjacent seas, the second, providing more detailed instructions, was issued on 25 April 1787.³ The instructions taken together lent a note of ambiguity to the development of the colony's maritime role.

Phillip was instructed to encourage the development of markets, ports and havens “for conveniency and security of shipping and for the better unloading of goods and merchandizes” [*sic*], to explore the coasts and to colonise Norfolk Island to “prevent it being occupied by the subjects of any other European power” and to extract and cultivate flax.⁴ On the other hand, Phillip was ordered not to allow private individuals to build any craft that might enable them to breach the East India Company's charter.⁵ These same instructions, forbidding private shipbuilding, were repeated in the Commissions issued to Governor Hunter in June 1794, Governor King in February 1802, William Bligh in 1807 and Lachlan Macquarie in 1809.⁶ These prohibitions and tariffs were designed to protect its London-based whaling industry and the monopoly

¹ J.T. Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and trade in the Colony of NSW, British House of Commons, 1823*, Adelaide LBSA, 1966, Australian Facsimile Editions, No. 70, pp. 50ff.

² C.H. Phillips, *op. cit.*; Margaret Steven (1983), *op. cit.*; Joseph Doty, *The British Admiralty as a factor in Colonial Administration 1689-1763*. Doctoral Thesis, University of Philadelphia 1930.

³ Instructions to Arthur Phillip, giving First Commission, *HRA*, Series 1, Vol. 1, p.8; Instructions to Arthur Phillip giving Second Commission, *HRA*, Series 1, Vol. 1, pp.13-16.

⁴ *Ibid*, p. 13.

⁵ *Ibid*, p. 15-16.

⁶ Instructions to John Hunter, *HRA*, Series 1, Vol. 1, p.534; to Phillip King, *ibid*, Vol. 3, p. 395; to Lachlan Macquarie, *ibid*, Vol. 7, p. 194.

of the EIC. These regulations also, of course, attempted to prevent the escape of convicts and debtors from the colony, and to discourage smuggling.⁷ Navigation between Great Britain and NSW was restricted to ships and vessels of not less than 350 tons burthen, acting as a profound disincentive to commerce.⁸

Local port regulations and tariffs acted similarly to discourage the development of a local shipping interest and an export trade.⁹ In an era when government activities were financed mainly by a system of indirect taxes through tariffs and duties on imports and exports, entry, clearance and wharfage charges, tolls, licences, and fines, the cost burden of local government administration was most directly borne by those engaged in the shipping industry.¹⁰ In December 1807 Bligh imposed duties on cargoes of coal and timber entering Sydney for home consumption and additional duty on timber exported from the colony, with additional duties for their procurement, metage, measurement and wharfage. He simultaneously imposed duties on the entry of sandalwood, pearl shells and trepang.¹¹

In March 1818 Governor Macquarie extended duties to other local produce, including sperm oil, black oil, sealskins, hair and kangaroo skins, cedar and New Zealand spars or other timbers, as well as on imported tobacco, while increasing duties payable on imported spirits and wine.¹² The high costs of duties and fees payable at Port Jackson persuaded the Reverend Samuel Marden to divert the missionary schooner *Active* from the New Zealand trade to the more profitable whaling trade. He informed the

⁷ The oppressive but essential nature of the local Port Regulations came under the review of the Bigge inquiry, with some relatively minor recommendations made to reduce their inconvenience to the shipping interest. See Bigge, *op. cit.*, pp.54-57.

⁸ By the 32nd section of the Statute, 53 George III, cap. 155, it was enacted "That no Ship or Vessel, the registered measurement of whereof shall be less than 350 Tons, shall sail or pass in any of the Seas to the Eastward of the Cape of Good Hope, or to the Westward of the Streights of Magellan, without a licence from the Board of Commissioners for the Affairs of India specially authorizing the same". (sic) *HRA*, Series 1, Vol. X, Footnote 7, p. 809. By the statute 35 George III, cap. 92, Sections 7, 19 and 20.

⁹ For tariffs see Macquarie to Bathurst, 15 May 1817, in *HRA*, Series 1, Vol. 9, pp.401-2. For other shipping duties and charges as current in 1816 see *HRA*, *ibid.* pp. 76-87.

¹⁰ In 1822, for example, the net produce of the NSW colonial Customs was £39,539/19/5, while all other sources raised only £5494/17/11. Based on the statement of the revenue and expenditure of the colony for the year 1822, enclosure attached to the despatch of Sir Thomas Brisbane to Under Secretary Horton, dated 28 January 1824, *HRA*, Series 1, Vol. 11, pp.206-211.

¹¹ Based on list of duties etc., levied in His Majesty's Colony of NSW, Naval Office, enclosure to Macquarie's despatch to Bathurst, dated 23 February 1820, *HRA*, Series 1, Vol. 10, pp.249-50.

¹² *Ibid.*

Church Missionary Society that, “The duty upon the timber and the port expenses of various kinds are so ruinous that she ought not to come into this harbour (Port Jackson) more than once in a year if it can be avoided.”¹³

NSW Judge-Advocate, Ellis Bent, and Supreme Court Judge, Jeffrey Hart Bent, seriously challenged some aspects of this system of local indirect taxation, proclaiming them to be illegal.¹⁴ Even Macquarie admitted in a letter to Earl Bathurst in May 1817 that the local (and illegal) tariffs and duties applied on imported products from the South Sea Islands and fisheries not only discouraged the colony’s commercial and shipping interests, but were self-defeating in terms of the low revenues received.¹⁵ Despite this acknowledgement, Macquarie had imposed many of the duties in 1818, and attempted to legalise what he realised were illegal impositions through the proclamation of Port Regulations, drawn up under the hand of the Honourable Judge Advocate, John Wylde, on 22 March 1819.¹⁶

The British Government’s failure to establish a separate Custom’s office until 1827, further discouraged commercial and shipping interests by subjecting shipping to bureaucratic delay.¹⁷ Instead a Naval Officer was responsible for a range of duties including registration of local vessels, customs searches, the collection of tariffs and dues, clearance of vessels, and seizure of vessels found to be in contravention of regulations. With the increasing volume of shipping after 1815 it was inadequately staffed, resulting in aggravating delays for local and overseas shipping. As the position, held by Captain John Piper, was funded directly through the collection of fines, duties and fees, it had the potential for graft. Piper’s legitimate income (based on shipping traffic alone) more than doubled between 1815 and 1822.¹⁸ However, his extravagant lifestyle and hostility to the increasing duties on imports, for which he

¹³ Marsden to Rev. J. Pratt, 7 February 1820, in J.R. Elder (ed.), *The Letters and Journals of Samuel Marsden, 1765-1838*. Dunedin, 1932.

¹⁴ See Ellis Bent’s comments on Macquarie’s draft Port Regulations and Macquarie’s response together with the draft regulations, dated 31 December 1814 and 24 February 1815, *HRA*, Series 1, Vol 8, pp.394-424. See also *HRA*, Series 1, Vol. 9, pp. 3-33, 107-108.

¹⁵ Macquarie to Bathurst, 15 May 1817, in *HRA*, Series 1, Vol. 9, pp.401-2.

¹⁶ Port Regulations proclaimed on 6 February 1819, attached to a despatch from Macquarie to Bathurst dated 22 March 1819, *HRA*, Series 1, Vol. 10, pp. 70-80.

¹⁷ David Day, 1992, *op. cit.*, pp. 162-167.

¹⁸ *Ibid*, p. 105.

was responsible for collecting, brought his activities to the attention of Commissioner John Bigge.¹⁹

The Regulations, which Macquarie claimed to be for the purpose of discouraging the escape of convicts, introduced additional port charges.²⁰ An indication of the value of the duties imposed by Macquarie was provided in a report he made to the Secretary of State, Earl Bathurst, on the state of the colony in July 1822.²¹ Macquarie asserted that when he had arrived in 1810, the amount of Port Duties did not exceed £8,000 per annum, but these duties by 1822 amounted to £28-30,000 per annum, with an additional £8-9,000 collected in port duties from Van Diemen's Land.²² While some of the increase reflected an increase in shipping movements during the period, Macquarie admitted that, "Trade and manufactures have not increased in the same ratio as Agriculture and Grazing".²³ Given the disincentives to trading imposed by Macquarie's indirect taxes on imports and exports this is hardly surprising. Nevertheless, there were also mitigating circumstances – including the fact that NSW was still an embryo colony whose infrastructures were essentially being financially under-resourced by the Home Government.²⁴

These local tariffs imposed by the Naval Officer amounted to a double taxation on the colonial shipping industry's sources of income – sandalwood, black and sperm whale oil, seal and kangaroo skins, pearl shell, timber, coal and trepang, all products (apart from timber) forming a significant proportion of the colony's exports to England (where they were also subject to tariff) and China, in a period when the colony had no other significant export products. Commissioner John Thomas Bigge, after inquiring into the state of agriculture and trade, reached a similar conclusion in 1823, although by that stage the offending taxes had been removed.²⁵

¹⁹ *Ibid*, p.116.

²⁰ These related to miscellaneous services including moorage, pilotage, heaving down and anchorage, as well as various penalties.

²¹ Macquarie to Bathurst, dated 27 July 1822, *HRA*, Series 1, Vol. 10, p. 675.

²² Macquarie, *Ibid*.

²³ Macquarie, *Ibid*.

²⁴ Day, 1992, *op. cit.*, p. 129.

²⁵ J.T. Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of NSW*, British House of Commons, 13 March 1823, pp. 87-8.

The real motive for Macquarie's belated concern over the imposition of import tariffs on marine produce became apparent in a despatch, dated 4 August 1819, from Earl Bathurst to Macquarie, in which he transmitted an Act to stay all proceedings which may be instituted against any person in imposing or levying Duties in the Colony, and to authorize the collection of certain duties until January 1821.²⁶ Bathurst informed him that he should continue to levy all taxes, except those applying to the re-export of colonial and South Seas produce, which provided little revenue "while they operate most prejudicially upon the Trade and Internal Prosperity of the Settlement".²⁷ This latter Act indemnified the government against any litigious proceedings that might arise from the merchant and shipping interests, especially from opposition sparked by Justices Bent and Field.²⁸ The extension of time given Macquarie to continue the payment of these essentially illegal duties was to enable the British Government time to proceed with its Commission of Inquiry under its appointee, J.T. Bigge, into the colonies' progress and prospects.²⁹ The Inquiry marked the commencement of the next phase in NSW business development.

Clearly Bathurst's response did not provide the level of reassurance Macquarie sought for the duties and other port impositions he had imposed during the term of his Office. In a despatch to Bathurst in February 1820, Macquarie expressed his concern he would be personally sued, on the termination of his governorship, unless protected by a special Act.³⁰ Macquarie was under increasing pressure from local merchants, shipowners and pastoralists to remove the local tariffs on local produce for re-shipment to Britain. This reached a head in a Petition to Governor Macquarie from the

²⁶ 59 George III, Cap. 114, a copy of which was enclosed in a despatch from Bathurst to Macquarie, 4 August 1819, *HRA*, Series 1, Vol. 10, pp.196-7.

²⁷ Bathurst to Macquarie, 4 August 1819, in *HRA*, Series 1, Vol. 10, pp.196-7. The produce included sandal wood, pearl shells, *beeche le Mer*, sperm oil, black whale or other oil, kangaroo and seal skins.

²⁸ Justice Bent to Macquarie, 2 October 1815, *HRA*, Series 1, Vol. 9, p.24; Justice Field to Macquarie, 23 February 1818, *ibid*, pp, 774 ff. Bathurst submitted their reservations regarding the legality of the imposition of duties to London solicitors Shepherd and Gifford. Their reply, dated 15 February 1819, may be located in *HRA*, Series 1, Vol. 10, footnote 45, p. 816. Macquarie expressed his relief that the Act would both indemnify himself from litigation and "have the good Effect of producing Submission to the further Levy of Duties, which Otherwise Could Scarcely be Expected After its being known that those Duties had been heretofore Levied Illegally." (Macquarie to Bathurst, 23 February 1820, *ibid*, p. 246.

²⁹ JT Bigge, (1823), *op. cit.*.

³⁰ Macquarie to Bathurst, 23 February 1820, *ibid*, pp.246-248.

merchants, shipowners and pastoralists, dated 19 November 1818, and transmitted by Macquarie to Bathurst on 1 March 1819.³¹

The issue of the imposition of local duties on local products and imported goods by the Colonial Government, however, was by no means stayed. The attitude of Macquarie and to a lesser extent his successor, Thomas Brisbane, is typified in a response made to Robert Campbell's request in October 1818 for an exemption from wharfage charges on the basis that such charges were in contradiction of British law.³² The Colonial Secretary wrote that he was not aware of any English precedent, and that in any case this would not necessarily dictate local usage.³³ Obviously, the effect of distance was to enable some Colonial Governors to feel they were beyond British laws.

In August 1823, Captain Thomas Brown and Sydney merchant Thomas Icelly, acting on behalf of London shipowners Buckles, Bagster and Buchanan, were required to enter a bond of £500 to proceed on a voyage to Port Stephens to procure cedar for shipment to Great Britain.³⁴ They were further obliged to pay a duty of 20s. per gallon for spirits and wine for the use of the crew. Buckles, Bagster and Buchanan subsequently complained of the "illegal" levy to Under-Secretary Horton, describing it as "harsh and prejudicial" to the interests of the Colony, suggesting that its trade and shipping "should be as little fettered as possible".³⁵ Bathurst's initial response to the complaint was to remind Brisbane that he had no power to impose such taxes, and was instructed to repay the duty, warning him against such illegal practices.³⁶

Brisbane attempted to justify the duties imposed on the *Woodlark's* voyage by writing that they were designed to protect the property of merchants "who had embarked their capital in an interesting enterprise." He pointed out the risks to the safety of local

³¹ *HRA*, Series 1, Vol. 10, pp.18ff.

³² Robert Campbell to Macquarie, 26 October 1818, *HRA*, Series 1, Vol. 10, pp. 404-5.

³³ Secretary J.T. Campbell to Robert Campbell, 29 October 1818, *HRA*, Series 1, Vol. 10, pp. 405

³⁴ Buckles, Bagster & Buchanan to Under-Secretary Horton, 18 March 1824, with enclosed copy of bond dated 18 March 1823, *HRA*, Series 1, Vol. 11, pp.247-250.

³⁵ *Ibid.* p. 248.

³⁶ Bathurst to Macquarie, 13 April 1824, *ibid.*, p. 247.

farmers, if either the convicts at Newcastle, or the local aboriginal population were provided with alcohol. He expressed concern that the aboriginal population would suffer from “moral and physical degeneracy, consequent upon drunkenness”.³⁷ He further added that gangs of convicts at the charge of local timber merchants brought down the timber in question to Port Stephens. Earl Bathurst refused to admit Brisbane’s excuse as in any way being sufficient grounds for the imposition of illegal duties.³⁸ Brisbane failed to say that these same local timber merchants and shipowners were liable to pay these duties and bonds even though they also victualled the assigned convicts procuring the timber.³⁹ Private enterprise was paying a heavy price for the penal settlement at Newcastle, until it was opened to free settlement in 1824.

Brisbane’s actions had not endeared him to Icely or to his London agents, Buckles, Bagster and Buchanan. In March 1825, Icely wrote to Bathurst from London complaining of Brisbane’s apparently inequitable imposition of duties on his importation of 31,347 gallons on West Indian spirits on the ships, *Allies*, *Lusitania* and *William Shand* in 1823.⁴⁰ When Icely shipped the spirits, the local duties payable on entry amounted to 10s. per gallon, or £15,673/10/-. However, prior to their arrival at Sydney, Brisbane raised the duty to 15s., representing an increase of £7,836/15/- in Icely’s costs.⁴¹ Yet, it was not simply the enormous decrease in potential profits the increase in duties imposed, but the fact that another merchant, importing shipments of spirits from the East Indies in similar circumstances, was excused the additional

³⁷ Brisbane to Bathurst, dated 6 November 1824, *HRA*, Series 1, Vol. 11, pp. 413-4.

³⁸ Bathurst to Brisbane, 4 June 1825, *ibid.*, p. 625. The duties were finally abolished by an Act of Council, 6 Geo. IV, nos. iv, vi, vii, and x, following recommendations made by John Thomas Bigge to the British House of Commons, *HRA*, *ibid.*, p. 585, and footnote 163.

³⁹ Thus for example Robert Campbell, Junior, and Thomas Street, had been required to enter a series of bonds for the voyages of the *Sally* and *Newcastle* to Port Stephens in 1823. A bond of £500 was payable for the release of their vessels on each a coastal voyage to Port Stephens or Newcastle. In addition they were subject to severe penalties for any breach of the agreement relating to the “smuggling” of alcohol or runaways (whether intentionally or not) of £200, or for any person trespassing beyond a five-mile limit from the sea. Copies of the agreements are located in NSW State Archives: *Colonial Secretary’s Correspondence*, 4/7027, Fiche 32-80, pp. 11-13; 24-29; 39-41.

⁴⁰ Bathurst to Brisbane, 5 June 1825, and enclosed correspondence, *HRA*, Series 1, Vol. 11, pp. 625-635.

⁴¹ The increase was authorised by the Act of 3 Geo. IV, Cap. 97, published in the *Sydney Gazette* of 5 June 1823.

levies.⁴² The merchant, Jacob Vicars, had through this preferential treatment been able to undersell Icely, to the latter's substantial loss. On this occasion, Bathurst's criticism of Brisbane's partiality, which compromised the British Government, was more suitably scathing.⁴³

On 24 November 1824, Sydney merchant, Thomas Horton James, was charged and convicted with having illegally and under false pretences removed a quantity of skin tobacco from the King's Store, he had imported into the colony as agent of the London firm of Buckles, Bagster and Buchanan. James successfully appealed the decision on the grounds that the duty on tobacco was in fact not listed in the Statute, 3 Geo. IV, Cap. xcvi. The success of the appeal encouraged other merchants to agitate for a refund of duties on the grounds that they were illegally charged.⁴⁴ Governor Brisbane was unimpressed with the decision to the extent of denying to James the usual privilege granted to men of capital, a land grant, despite instructions issued from Whitehall.⁴⁵ With the support of the Surveyor-General, John Oxley, he argued that no suitable waterside land was available in Sydney for James to erect his warehouse.⁴⁶

In correspondence to Bathurst, Brisbane suggested James was no more than a common smuggler, and that his request for a waterside location was "calculated to hide the goods which avarice and dark nights would have encouraged him to run".⁴⁷ An emancipist or member of the militia might more readily have submitted to such arrogant and arbitrary conduct and calumny on the part of Colonial Governors. For the newly arrived business community, with respectable family, business and political connections, such attitudes were intolerable. By 1825, merchants aligned themselves with the Macarthur family in a petition to Lord Bathurst for the establishment of an Executive and Legislative Council composed of pastoralists and merchants, along the lines of those of Great Britain.

⁴² It appears likely that Lieutenant Jacob Vicars, of the Bengal Native Infantry, was acting on behalf of the East India merchants, Mackintosh and Co. See *HRA*, Series 1, Vol. 11, pp.124-7.

⁴³ *Ibid.*, pp. 625-6.

⁴⁴ *HRA*, Series 1, Vol. 11, pp 615, 888, and footnote 180.

⁴⁵ Brisbane to Bathurst, dated 11 October 1825, *HRA*, Series 1, Vol 11, pp. 888-891.

⁴⁶ Surveyor-General Oxley to Macquarie, *ibid*, attachment, pp. 890-1.

⁴⁷ Brisbane to Bathurst, 11 October 1825, *ibid*, p. 888.

Successive NSW Governors voiced a preoccupation with the potential for smuggling and the escape of convicts and debtors due to the many opportunities offered by the colony's unpatrolled coastline. Karskens has suggested that successful escapes were carefully organised, and reflected active collusion with shipmasters, seeking additional labour.⁴⁸ How significant these problems really were can only be assessed against the instances when arrests and seizures were made, or escapees noted. Such figures as are available suggest that problems were more systemic than real. The Naval Officer, Captain Piper, wharfingers such as George Panton, and local police received payments in the form of commissions on duties, seizures, arrests, and penalties, a system which encouraged wide-scale corruption.⁴⁹ Ship musters were carried out at the Colonial Secretary's Office rather than on board ship, providing no real check on either defaulters or escaping convicts, and seriously inconveniencing shipping.⁵⁰

In response to an alleged increase in smuggling in 1818, the Government issued a proclamation in October 1818, forbidding the landing of any shipping in any part of Sydney Harbour other than at the King's Wharf on pain of seizure of the offending vessel and prosecution of its owner.⁵¹ Interestingly the alleged increase in smuggling occurred within months of Macquarie's decision to impose new duties on local produce, and to increase duties on spirits and tobacco. It seems probable that if there had been any increase in smuggling, (for which there appears little extant evidence), then it may have occurred in response to these further government impositions.

Great Britain had experienced a similar phenomenon in relation to the tea trade. In 1784 the Pitt Government had responded to a serious smuggling problem in Britain by proclaiming the Commutation Act, reducing duties payable on the importation of tea

⁴⁸ Grace Karskens, '“This spirit of emigration”: the nature and meanings of escape in early New South Wales', *Journal of Colonial History*, Vol. 7, No. 1, 2007, pp.11, 27-8

⁴⁹ An inquiry was held into Piper's administration of the Naval Office in 1826, see Governor Darling to Bathurst, dated 21 October 1826, *HRA*, Series 1, Vol 12, pp. 653 ff, and Vol. 13, pp.245 ff. George Panton made financial claims for his disputed seizure of the brig *Ann* for alleged smuggling in December 1824. See Bathurst to Darling, with attached correspondence from George Panton, dated 22 February 1826, *HRA*, Series 1, Vol. 12, pp. 174-181.

⁵⁰ J.T. Bigge, *op. cit.*, p. 55.

⁵¹ Government Order of 24 October 1818, *HRA*, Series 1, Vol. 10, Footnote 105, p. 828.

from over 100% to 12½%.⁵² Apparently in response to the Act, EIC sales of tea in England rose in 1783 from 5,857,882 lbs to 15 million pounds in 1785, and by 1833 to thirty million pounds, providing revenue of £3,300,000 per annum, one tenth of the total revenue. That Macquarie lacked the insight to understand additional revenues might accrue at least as much by encouraging trade, as by imposing additional burdens on those engaged in it, is suggested by John Thomas Bigge's inquiry into NSW trade. He criticised the colonial port regulations and the heavy duties and delays it imposed on shipping and merchants, especially on the English whaling trade. He suggested discouraging local interests only served to the advantage of American shipping.⁵³

David Day, in his 1992 study of Australia's Customs history, suggested that "Distance and necessity had allowed successive governors to ignore the (navigation) laws and, on occasions, the monopoly of the EIC."⁵⁴ Macquarie's own attitude to the British navigation laws suggests more than simple evasion. In response to a request by Sydney merchant, Robert Campbell, for the privilege of continuing to use his own sufferance wharf and storehouses according to British custom, rather than being inconvenienced by having to use the inadequate facilities at the King's Wharf, he was informed by the Colonial Secretary:

His Excellency does not feel it incumbent on Him at this time to enter upon the question of the Law in England being necessarily Law in the Colony in New South Wales, the Situation and Circumstances of the two Countries being so dissimilar as to render it obvious that All the Old established Laws and Customs of England cannot possibly apply in an Infant Colony such as New South Wales.⁵⁵

In response to Bathurst's inquiry, regarding Robert Campbell's request to use his own wharf and warehouse facilities, Macquarie admitted previously giving Campbell

⁵² British House of Commons Select Committee on the EIC, 1830, quoted in Michael Greenberg, *British Trade and the Opening of China 1800-1842*. Cambridge University Press, Cambridge, 1951, p. 3.

⁵³ J.T. Bigge, *op. cit.*, pp.58-63.

⁵⁴ David Day, *Smugglers and Sailors: The Customs History of Australia, 1788-1901*. Australian Government Publishing Service, Canberra, 1992, p. 107.

⁵⁵ Secretary J.T. Campbell to Robert Campbell, dated 29 October 1818, *HRA*, Series 1, Vol. 10, pp.405-6.

permission to land goods at his own wharf as a “Special Indulgence”, but it was clearly understood that he should continue to pay wharfage fees.⁵⁶ He deposed that if Campbell were exempted then “all other Merchants, having Private Wharfs, would of course claim a Similar Indulgence, which would prove a serious Injury to the Public Revenue derived now from Wharfage Dues”. In Campbell’s case, the wharfage dues amounted to £1,000 per annum, for the privilege of using his own wharf and warehouses, built and maintained at his own “considerable” cost.⁵⁷

Robert Campbell Senior’s private wharf and warehousing in Sydney Cove may have been a source of irritation for a few of the early Governors, not least because it threatened the limited income derived from local sources through wharfage and warehousing charges at the Government Wharf. Colonial Governors trod an increasingly untenable tightrope between their role as managers of a prison colony and the demands of a growing trading post. The system of land grants proposed by Bigge was designed to encourage free settlers with investment capital into the colony. These investors were not prepared to suffer the indignities of restrictions designed for convicts, nor the burden of an indirect taxation system designed to subsidise it, without adequate compensation. They required wharves for their ships, and warehouses to store their own imports and export produce, as well as land grants commensurate with their investment capital.

The colonial government was initially very reluctant to encourage the development of private wharves and warehouses. During the early 1820s it sought to restrict shipping to the Government Wharf and warehouses due to its preoccupation with preventing customs evasion, smuggling, or the escape of convicts.⁵⁸ Such a policy position became increasingly untenable with the arrival of merchants, from Britain in particular, keen to establish themselves in an expanding market and to take advantage of the lucrative system of property-based land grants. Merchant, William Walker, built the first wharf in Walsh Bay near Dawes Point in the early 1820s,

⁵⁶ Macquarie to Bathurst, dated 27 November 1821, *HRA*, Series 1, Vol. 10, pp.566-7.

⁵⁷ Goulburn to Macquarie, 14 March 1821, with attached letter from Robert Campbell, *ibid.* pp.403-4.

⁵⁸ Grace Karskens, ‘“This spirit of emigration”: the nature and meanings of escape in early New South Wales’, *Journal of Colonial History*, Vol. 7, pp.1-34.

initially for coastal shipping and the “high risk, but highly profitable, whaling industry”.⁵⁹ Walsh Bay was among the premier sites for wharves servicing ocean-going shipping, as it afforded deepwater facilities.⁶⁰ The steady arrival of the merchant class into the colony during the 1820s, and demands on wharfage and warehousing space by an increasing volume of merchant shipping, no doubt helped to convince the colonial government of the need to bow to the pressure of merchants to build private wharves. This was further encouraged by the passing of an amendment to the British Navigation Acts in 1835, which recognised Sydney, Hobart and Launceston as Free Ports and Free Warehousing Ports, enabling them to operate as entrepôts for international shipping.⁶¹

While ownership of wharves and warehousing were a distinct advantage, the cost and demand for suitable sites for private wharves in Darling Harbour and at Sydney Cove had already become a serious problem by 1830. Merchants and shipowners who were able to command wharves and warehousing around Darling Harbour and Sydney Cove clearly were in a position to exploit opportunities for additional income. Not only could they use their private wharves to discharge their consignments of merchandise into their own warehouses, they could also employ their wharves for the loading of surplus merchandise to other markets, including coastal ports and internal markets by river, including Hobart, Launceston, Parramatta, Clarencetown and Morpeth. Wharves and warehousing also supplied a valuable and additional source of income, through which they could act as shipping agents to visiting ships from overseas ports and the fishing grounds.

The frustrations of attempting to conduct commercial operations in NSW during the 1820s are clearly apparent in the case of merchants, Kemmis and Brown. In 1828 merchant and shipowner, Arthur Kemmis, unsuccessfully requested a land “grant” at

⁵⁹ S. Fitzgerald & C. Keating, *The Urban Miller's Point Village*, Sydney 1949, p. 20.

⁶⁰ A map of the town of Sydney produced with the permission of the Surveyor-General for the *NSW General and Post Office Directory* in 1831, indicated a water depth between 4-8 fathoms, compared with the 1-2 ½ fathom depth soundings in Darling Harbour.

⁶¹ The Order in Council, 3 & 4 William IV, “An Act to regulate the trade of British Possessions abroad” was passed on 20 November 1835, and transmitted in a despatch from Lord Glenelg to Governor Bourke on 26 November 1835, *HRA*, Series 1, Vol. 18, p. 198.

Darling Harbour.⁶² When he and his business partner, John Brown, sought an alternate site on Goat Island for a whaling establishment their application was again rejected.⁶³ They applied for land between Rushcutter's Bay and Double Bay (for villas), but once again the application was rejected. They were then invited to apply for land at Darling Harbour, but as there were too many applicants, the application was rejected yet again.⁶⁴ In 1830 they were finally successful in applying for an allotment at Neutral Harbour, obtaining two and a half acres there in January 1831. From a business point of view, such delays were very costly.

John Lamb's application for a grant of land at Dawes' Point suffered similar difficulties.⁶⁵ Lamb sought land adjoining Jones and Walkers' premises to the Old Government Slaughter yards for a Patent Slip for docking vessels, on the grounds of alleviating the "tedious and dangerous" practice of heaving down. Lamb pointed out the reason he sought a grant rather than a purchase was the cost of such a project – the cost of Morton's Patent Slip (Edinburgh) and transporting it, laying down "ways" would exceed £3,000. Clearly the idea of having a private investor supply modern ship-repair facilities was tempting. The application was much discussed by Macleay, Darling and Surveyor-General Mitchell, with the latter commenting in a report of 7 November that:

Notwithstanding the advantageous position of Sydney on the shores of a secure and well sheltered harbour, this town has not yet, with the exception of King's Wharf, a single accessible quay or wharf, an appendage so essential to any trading port, but indispensable in the principal port of a new country so dependent as NSW must ever be on the sea for its commercial prosperity or perhaps existence.⁶⁶

⁶² The term land "grant" can be a misleading one. In reality, these grants were land purchases from the government involving the payment of "quit rent" usually over a seven-year period, before full entitlement to the land was given.

⁶³ Kemmis to the Colonial Secretary, 19 November 1831, *HRA*, Series 1, Vol. 16, pp. 571-2.

⁶⁴ In fact the reason for the rejection of Kemmis' application for land at Darling Harbour was stated to have been due to Governor Bourke's opposition to development on its eastern shore, land which was subsequently granted to the Colonial Treasurer. *HRA*, *ibid.* pp.693-4.

⁶⁵ Messrs Lamb, Buchanan and Co., Sydney to Col Sec. Macleay, dated 20 August 1829, *HRA*, Series 1, Vol. 16, pp. 180-185.

⁶⁶ Mitchell, 7 November 1829, *Ibid*, p. 181.

One of the difficulties cited in making land available was the existence of instructions from London reserving all land within the neighbourhood of Forts etc. for military purposes.⁶⁷ Miller's Point was not reserved although "of much importance for the defence of the proposed naval Dockyard and the navigation of the river".⁶⁸ Mitchell suggested that part of the Government Domain be given up behind Macquarie Fort "for the purpose of forming wharfs, warehouses, and dockyards so essential to any Colony" as it was "ill calculated for defence".⁶⁹ It was not a novel idea, having been discussed and discounted by Bigge in 1821.⁷⁰ For Darling it was a singularly abhorrent idea, and one that certainly contributed to Mitchell's disciplinary suspension.⁷¹ However, the decision regarding the removal of the Dockyard was postponed, as it was a "matter entirely for the consideration of His Majesty's Government".⁷² The internal correspondence between Darling, Macleay and Mitchell over the issue of land release, and reference to the Secretary of State, suggests a government ill prepared for transition from penal colony to trading post. A final decision to release land to private individuals was not made until October 1830.⁷³

By 1831, the Surveyor's Department was finding it impossible to meet the merchants' demand for suitable sites at Darling Harbour and Sydney Cove, and to balance the need to maintain land for His Majesty's Dockyards and Governor Darling's insistence

⁶⁷ Secretary of State, Circular No. 2, dated 30 May 1827, *ibid*.

⁶⁸ Surveyor-General Mitchell correspondence, dated 23 March 1831 *ibid*, p. 180.

⁶⁹ *Ibid*, p. 180-1.

⁷⁰ J.T. Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales* (Common's Paper 136, ordered to be printed 13 March 1823; Lord's Paper 119, ordered to be printed 4 July 1823 (All of the above reports, including Earl Bathurst's Instructions were published and printed as "The Bigge Reports" by Library Board of South Australia, Australian Facsimile Editions No 68, 1966, p. 62.

⁷¹ Mitchell, *loc.cit*. Letter from Arthur Kemmis to the Colonial Secretary, 19 November 1831, *ibid*, pp. 571-2. Since Kemmis' first arrival in NSW on the *Numa* in July 1828 with over £10,000 in merchandise, Bourke had rejected various applications by shipowners, Arthur Kemmis and Company at Darling Harbour, Double Bay, Rushcutters Bay and even at Goat Island, finally granting land at Neutral Bay, on the grounds that he opposed development on the eastern shore, which he believed should be reserved for the public. Disciplinary action against Mitchell was commenced in 1831, *HRA*, Series 1, Vol. 16, Proceedings of the Executive Council in the Case of the Surveyor-General, Enclosures, Q, R, T, U-W, X-Z, to Minute 7/1831, pp.20-9; for a much broader view of the ongoing conflict between Mitchell and Darling see J.H.L. Cumpston, *Thomas Mitchell: Surveyor General and Explorer* (1954), republished online as part of the Gutenberg Australia Project, e-book No. 0700531h.html, in April 2007. esp. Chapter V.

⁷² McLay to Mitchell, 7 January 1830, *ibid*, p. 184.

⁷³ McLay to Mitchell, (No. 30/1165), dated 5 October 1830, *HRA*, *ibid*. p. 185.

on retaining the public Domain intact. Darling Harbour's suitability was limited due to the effects of tides, and potential wharf-owners such as Thomas Street, Hughes and Hosking and Henry Bass were often required to undertake extensive work before shipping could access their wharves safely in all tidal conditions.⁷⁴ Sydney Cove also provided challenges in the form of silting, especially if shipping discharged their ballast illegally.

In March 1831, a decision was made to relocate the often foul-smelling whaling establishments on the North Shore to prevent "nuisance".⁷⁵ Careening coves were to be established at Neutral Harbour and Great Sirius Cove and Little Sirius Cove. A decision was also made to remove the Government Dockyard and Lumberyard at Darling Harbour, and many of their services were subsequently tendered out to private contractors, on the premise that this would significantly reduce government costs.⁷⁶ This decision proved one of the major turning points in the long-drawn out battle by private enterprise for a place in the Colony.

The decision to make land available at Darling Harbour was made too late for John Lamb, who found other uses for his valuable capital.⁷⁷ In April 1832, Captain Alexander Fotheringham wrote to Lord Goderich on the point of his departure from England, regarding his intention of exporting a Patent Slip to Sydney.⁷⁸ He advised that he had purchased Mr. T. Morton's Patent Slip for dragging ships out of water on dry land in order to repair them, and taking it to Sydney. The new invention was being used at Hull and elsewhere as a substitute for a Dock and was, he claimed, capable of handling vessels up to 700 tons burthen.⁷⁹

⁷⁴ There was extensive correspondence regarding the conflicting land claims of Thomas Street and John Hughes at Darling Harbour in 1831, see *HRA*, Series 1, Vol. 16, pp.196, 197, 204-7. Henry Bass, after unsuccessfully attempting to obtain a suitable grant at Darling Harbour for his shipyard and wharf, eventually purchased the estate of Captain John Piper. Henry Tompson Bass (1832-1837), 27 December 1831, Colonial Governor's Land Records, SRNSW, 2/7797, Reel 1089; No.32/1071, dated 10 January 1832; No. 32/8476, dated 13 November 1832. His request was approved.

⁷⁵ Macleay to Mitchell, 28 March 1831, *HRA*, *ibid.* p. 184.

⁷⁶ *Ibid.*, p. 184,

⁷⁷ Lamb subsequently purchased a premium site at Dawes Point, on which a wharf was erected.

⁷⁸ Fotheringham to Goderich 27 April 1832, *ibid.*, pp. 618-619.

⁷⁹ *Ibid.*

Fotheringham estimated that 250 merchant ships were registered in the Australian colonies, both whalers and trade vessels, as well as HM Ships, and that there was an increasing number of British and other colonial ships visiting there.⁸⁰ He requested a land grant to be reserved near the Dockyard. Fotheringham reached Sydney before he learned that his request was denied, all land by then being sold at public auction.⁸¹ The best he could expect was a letter to Bourke, supporting his endeavour. Fotheringham did not receive a land grant, but he did receive preferential treatment in the form of a ninety-nine year lease, at low rental.⁸² Fotheringham's application received widespread support from among Sydney shipowners and merchants, who petitioned Governor Bourke in his favour.

By August 1832, Sydney merchants had also made a significant breakthrough in their prolonged battle to secure permission to bond spirits and other imported goods in their own stores. In a complaint reminiscent of that made by Campbell in 1818, Thomas Inglis, an agent of the Australian Company of Edinburgh and merchant of Sydney, protested not being permitted to bond rum in his own stores.⁸³ He stated his own stores were well suited, but instead was forced to hold them in other stores for which he paid a high rent. Those stores were contracted from individuals at the discretion of the Collector and Comptroller of Customs. Customs did not, however, stipulate the rental to be charged. Inglis subsequently found alternate stores at a reduced rental, but was still inconvenienced by his inability to use his own stores.

Bourke suggested to Goderich that the old London system of allowing goods to be bonded in all well secured private stores, approved by Customs, should be introduced.⁸⁴ He added that even if this increased the cost to Customs, merchants "are fairly entitled to all possible accommodation," as they provided the principal source of revenue to the Colony through Customs duties. He also suggested an alternative might be for the Government to prepare a schedule of warehouses, and

⁸⁰ This assertion appears to have been a somewhat inflated claim, even if it included vessels built and registered in Van Diemen's Land.

⁸¹ Hay to Fotheringham, 25 April 1832, *ibid.* p. 619.

⁸² *HRA*, Series 1, Vol 17, pp196-197.

⁸³ Bourke to Goderich, 6 August 1832, *HRA*, Series 1, Vol. 16, pp. 692-3.

⁸⁴ *Ibid.*

their owners invited to tender, with a sufficient number at the lowest rate being licensed. Bourke's views represented a welcome departure from those of his predecessors.

An indication of the importance and value of obtaining strategically placed wharf and warehousing facilities in Sydney Harbour for shipowners, shipbuilders and merchants, is reflected in the prices that such land and premises fetched when sold. Sydney merchant and landowner, J.B. Bettington's Darling Harbour wharf and warehousing, for example, sold for £3,500 in 1837.⁸⁵ Wool exporters, Aspinall & Browne, who divested themselves of their large wharf and warehousing complex at Walsh Bay in August 1838, secured £8,000 for its sale to S.A. Donaldson, then partner and manager of Richard Jones & Co.⁸⁶ When merchants, James Wright, William Long, Richards & Co.'s partnership was dissolved and estate declared bankrupt in 1836, their large Darling Harbour property with its wharfs, extended waterfrontage of 1,400 feet, three storey bonded warehouses, rented shipyards and housing were eagerly sought at public auction, with prices ranging from £17-£27 per foot.⁸⁷

One of the chief beneficiaries of this exposure of strategically-situated waterfrontage, wharf and warehousing space was Henry Moore, the son of Captain Joseph Moore, a partner in the firm of William Walker & Co. Moore paid £11,124 for the privilege of obtaining a stone wharf, deep water access to Darling Harbour and three-storey bonded warehousing. Wright and Long claimed they spent £40,000 building the new warehouses in 1835, and if this were the case their large capital investment may certainly have explained some of their financial difficulties.⁸⁸ The purchase signalled the separation of the Moore's from their partnership with William Walker and Co., and the establishment of an independent shipping and merchant company, Henry and Joseph Moore & Co. Alexander Spark also remarked of "the very high prices" fetched in sale of waterside allotments on the Pymont estate in December 1839, being at the

⁸⁵ G.J. Abbott & G. Little (eds.) (1976), *AB Spark's Diary, op. cit.*, 1 May 1837, p. 77.

⁸⁶ *Commercial Advertiser*, 1 September 1838; Sandra Draper, 'Donaldson, Sir Stuart Alexander (1812-1867)', *Australian Dictionary of Biography*, Vol.4, MUP, 1972, p. 84.

⁸⁷ *Commercial Journal and Advertiser*, 22 November 1837, p. 2.

⁸⁸ *Ibid.*, 20 November 1837.

rate of £3,500 or more.⁸⁹ Fotheringham was also able to benefit financially from his lease of the Darling Harbour site, with its wharf, warehousing, counting house and Patent Slip. He obtained a mortgage on the property in 1837, and during the early 1840s sold or rented out parts or the whole of the premises in turn to Richard Peek and Captain J.H. Lister, to Ranulph Dacre, Captain John Thom, Abercrombie & Co. and Martyr and Company.⁹⁰

Even with the introduction of the system of sale by public auction in 1831, and the increasing number of private wharves and warehousing during the 1830s, there were insufficient wharves to cater for the increasing volume of coastal, inter-colonial and overseas shipping. In August 1836 a Committee of the NSW Legislative Council successfully advocated for the extension of the government wharf adjacent to Campbell's wharf to a point on the eastern side of Sydney Cove.⁹¹ In August 1838, the shortage of wharfage space was becoming acute, with members of the shipping interest seeking urgent government action to construct Circular Wharf.⁹² By December 1847 the new Circular Wharf was offered at auction for public lease for one year.⁹³ Sydney shipowner and merchant, John James Peacock was the successful tenderer, leasing the wharf for £1,000, while John Macnamara leased the older Queen's Wharf for £150, and George Thornton secured the lease for the Newcastle Wharf for a mere £10.⁹⁴ The lessees were empowered to collect wharfage fees based on tonnage rates, as well as dues for shipment and discharge.

Newcastle's position, close to the agricultural and mining rich Hunter region, eventually offered an attractive alternate commercial centre.⁹⁵ Its late development as a commercial port was largely due to its initial use as a secure penal settlement. However, it was also disadvantaged not only by some natural navigational problems

⁸⁹ Spark, *op. cit.*, 12 December 1839, p. 114.

⁹⁰ John Thom, 18 December 1843, Insolvency Papers, SRNSW, 2/8768, CGS13654, item 1124.

⁹¹ J.Bach, *A Maritime History of Australia*, Thomas Nelson (Aust.), Melbourne, 1976, p.28.

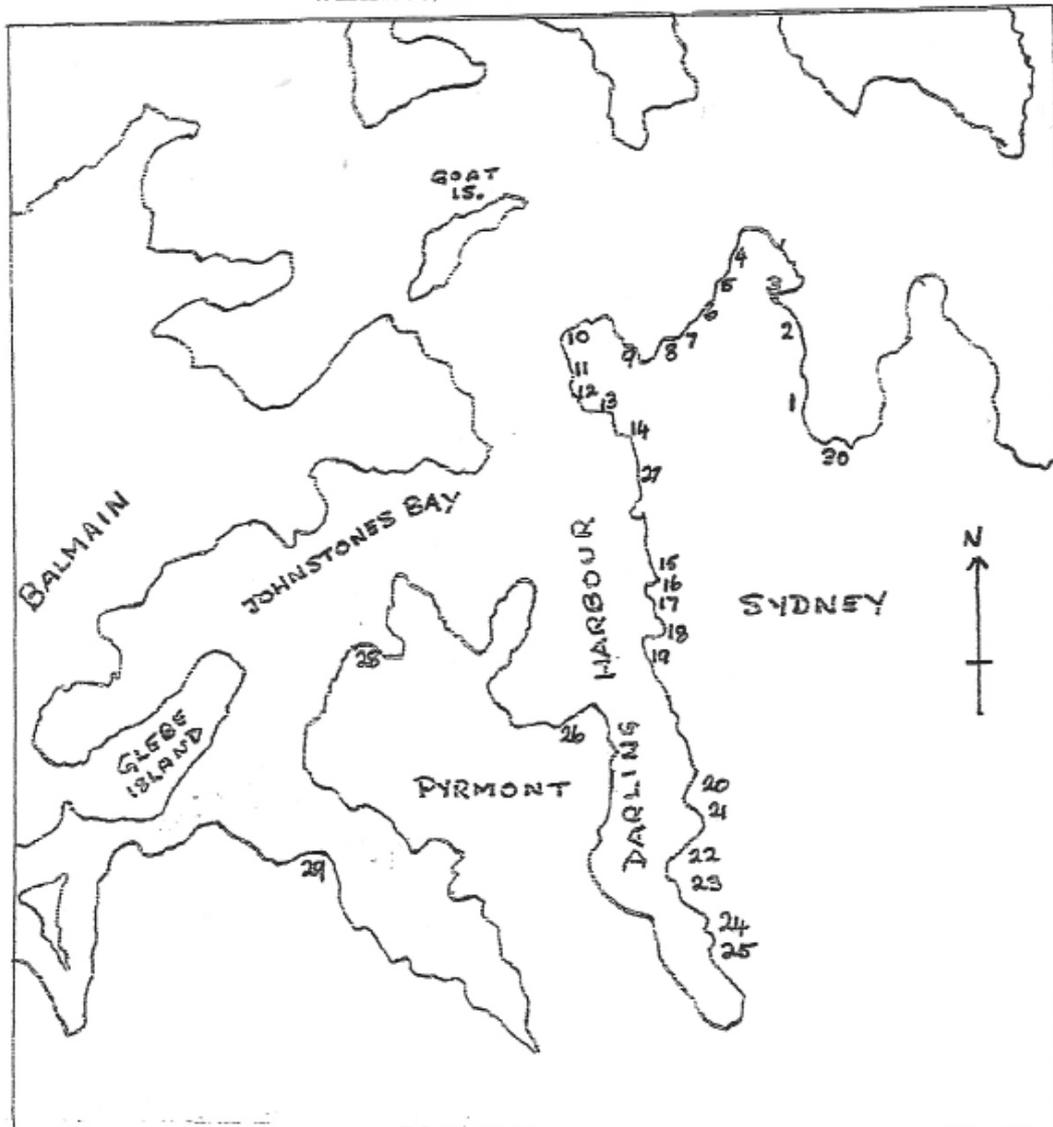
⁹² *Commercial Advertiser*, 4 August 1838. A feasibility study undertaken by Captain Barney, Royal Engineer, and completed in September 1838, highlighted some of the difficulties in developing this facility, *Commercial Advertiser*, 17 September 1838.

⁹³ *Shipping Gazette and Sydney General Trade List*, 11 December 1847.

⁹⁴ *Ibid.*

⁹⁵ Morpeth was initially the favoured site for coastal shipping, having private wharfage facilities for the loading of agricultural products, courtesy of Captain Anlaby.

**MAP OF SYDNEY HARBOUR SHOWING MAIN PUBLIC AND PRIVATE (SUFFERANCE)
WHARVES, AND SHIPYARDS, 1830-1850**



Names of Main Wharf-Owners or Lessees, and Shipyards and their Locations (South Side)

1 King's Wharf	7. Aspinall & Brown's Wharf	13. Munn's wharf & shipyard (Deloitte)	18. Commercial Wharf	25. Wilson's Wharf
2. Campbell's Wharf	8. Town's wharf	14. HRSN Wharf	19. Strath's yard	26. Russell's shipyard
3. Cunnynghame's wharf & shipyard	9. Long & Wright (Moore's)	15. Fotheringham's Wharf/ Patent Slip	20. Market Wharf	27. Bass's wharf & shipyard
4. Jones & Walker's wharf	10. Ebsworth's Wharf	16. Town & Darley's wharf	21. Hughes & Hoskings (Albion)	28. Chowne's shipyard
5. Lamb & Parbury's wharf	11. Duke's Wharf	17. Armitage's wharf	22. Street's Wharf	29. Korff's shipyard (1844)
6. Pitman's wharf (Edwards & Hunter)	12. JB Bettington's Wharf		23. Hyndas Wharf	30. Circular Quay (1844)
			24. Grose's wharf	

but also by the fact that it was only in the mid-1840s that it was declared a Free Warehousing Port.⁹⁶ By 1849, Newcastle could boast thirty-six vessels of 8,987 tons of shipping bound outwards for foreign ports and other colonies, with an additional 1,106 vessels of 64,276 tons destined for other NSW or Victorian ports.⁹⁷ In 1850 the tonnage of vessels bound for foreign ports alone from Newcastle reached a total 19,558 tons.⁹⁸ By then, however, Sydney had firmly established its identity as the mainland's principal shipping port, and continued to handle most foreign and domestic shipping, especially shipping from Great Britain.

By November 1844, a new 800-foot public wharf had been constructed at Circular Quay, Sydney, (capable of handling seven vessels broadside or up to fourteen moored bow or stern on), in addition to Queen's Wharf and Market Wharf.⁹⁹ There were also twenty private sufferance wharves located in NSW from Sydney Cove to Pyrmont (See Map 1, p.42a). With the completion of the new public wharf, the NSW Legislative Council appointed a Select Committee to review wharfage rates in an attempt to recoup construction costs. The Committee concluded that previously regulations had given the private sufferance wharves a financial advantage by setting rates at one-third those charged at the public wharves. Thus, of almost £2,586 collected by Customs in 1843 for wharfage charges, less than one-tenth had been collected for the use of the Queen's Wharf. The Committee recommended that public wharfage be raised from a penny per ton to sixpence per ton, while that charged at sufferance wharves be raised to one-half the public rate. According to a previous Act of Council, these rates were only chargeable after a specific period relating to ship tonnage, a measure designed to discourage lengthy delays in port.¹⁰⁰

⁹⁶ This privilege shared by Sydney, Hobart and Launceston since 1835, was extended to Port Phillip in 1840. In September 1848, Moreton Bay was denied a similar status, *HRA*, Series 1, Vol. 26, 18 September 1848, p. 628, on the grounds of cost. The privilege was extended to Newcastle by an Act in Council, announced on 4 July 1846, *Shipping Gazette and Sydney General Trade List*, 4 July 1846.

⁹⁷ *Shipping Gazette and Sydney General Trade List*, 26 April 1851, p.125.

⁹⁸ The 1850 figures included twenty-eight vessels of 10,904 tons bound for America, mostly for San Francisco.

⁹⁹ *Shipping Gazette and Sydney General Trade List*, 2 November 1844.

¹⁰⁰ 7 Vic. No. 12, Section 14 stated that vessels under 100 tons were allowed six days to discharge and load freight; between 100-200 tons, twelve days; 200-300 tons, sixteen tons; 300-400 tons, twenty days; 400-500 tons, twenty four days; 500-600 tons, twenty eight days; while those of over 600 tons were allowed thirty-five days, before wharfage charges were applied. *Ibid.*

If the Committee's mandate was designed to redress any imbalance between public and private wharfage use, it clearly did not achieve that through its recommendations. Instead it represented just an extra indirect tax burden imposed on the shipping interest. The only way this burden could be avoided by shipowners and agents was to improve the efficiency of cargo handling. The recommendations could not have come at a worse time, with many shipowners and agents reeling from one of the most extensive financial crises yet faced by the colony. Just over a year earlier, the shipping community was also advised that the local NSW Water Police Act, passed in 1840 to address the problem of ship delays caused by deserting seamen, had been rejected by Whitehall. However much the shipping community welcomed the additional public wharfage facilities at Circular Quay, the final costs to them were high. Their irritation with legislative interference became increasingly focussed in a very active campaign for the overhaul of British protective policies enshrined in the Merchant Seamen's Act and Navigation Laws. This campaign will be discussed in Chapter Three.

The 1820s had proved to be a difficult transitional phase for Sydney, from a settlement whose main focus had been on the management and containment of a convict population, to a commercial centre. This focus gave encouragement for a system of arbitrary government, scarcely contained by its judiciary. It was entirely inappropriate for the management and encouragement of private commerce. By 1831, private enterprise successfully emerged from its long struggle against legal obstructions, excessive tariffs, and illegally imposed duties, securing for itself a slice of valuable real estate on Sydney Harbour's foreshores from which it conducted merchant and shipping activities. However, there were still a number of other substantial political barriers to overcome, including the East India Company's monopoly.

CHAPTER 2: NSW AND THE EAST INDIA COMPANY MONOPOLY

Background:

The East India Company Acts (renewable every twenty years) imposed a serious obstacle to future NSW development as well as British imperial and commercial ambitions.¹ As previously mentioned, Governor Phillip's ambiguous Orders included a brief to protect the Company's monopoly of trade with India and China. While denying private trade and controlling shipping movement, it simultaneously enabled British Naval-backed operations to secure flax and timber supplies. Australian historian, H.T. Fry, suggests that Pitt's government had the East India Company's market in its gun-sight, when it proposed the settlement of NSW.² The East India Company (EIC) understandably viewed the British Government's plan to establish a colony at Botany Bay with a great deal of suspicion.³ There is indeed some evidence to suggest that settlement of the Australasian colonies provided the backstage on which members of Pitt's inner circle conducted a shadow-war against the EIC and supporters of British protectionist policies.⁴

The activities of the key members of Pitt's government to undermine and control elements of the "India interest" within the British Parliament, give weight to Fry's argument.⁵ Margaret Steven noted that in the critical months during which the decision was made to establish the Botany Bay settlement, William Pitt, Henry Dundas, Lord Grenville and Charles Jenkinson formed a core group while Jenkinson "virtually assumed the role of managing director of British overseas trading

¹ M. Roe, 'Australia's Place in the Swing to the East, 1788-1810', *Historical Studies*, Vol. 18, No. 30, May 1958, p.202.

² H.T. Fry, 'Cathay and the Way Thither': the Background to Botany Bay', in *Historical Studies*, Vol. 14, 1969-71, pp. 497-510. Reprinted in Ged Martin (ed.), (1978), *op.cit.* pp.136-149.

³ Alexander Dalrymple to the Court of Directors of the East India Company, 13 July 1785, *Papers of Alexander Dalrymple (1737-1808)*, MS43, pp.4ff., NLA; Alexander Dalrymple, Memorial dated 1 September 1786, published as *A Serious Admonition to the Public on the Intended Thief Colony at Botany Bay*, London 1786, pp. 22-5, cited in Robert J. King, 'A Regular and reciprocal System of Commerce', Botany Bay, Nootka Sound and the Isles of Japan'. *The Great Circle*, Vol. 19, No. 1, 1997, p. 3.

⁴ Alexander Dalrymple, hydrographer to the East India Company, consistently petitioned both the EIC Court of Directors, and Henry Dundas, of the Board of Control against the proposal to found a colony at Botany Bay or Norfolk Island on the grounds that they would pose a threat to the Company's charter and monopoly. (Dalrymple to H. Dundas, 23 July 1784; Dalrymple's Memorial of 1 September 1786).

⁵ C.H. Phillips, *The East India Company 1784-1834*, Manchester, 1961.

enterprises,” during a period when Parliamentary debate was suspended, a view receiving creditable support from Stackpole.⁶ Dundas played a key role on the Company’s new Board of Control (created by the Pitt Government in August 1786), at the same time the Board of Trade was formed under the control of Jenkinson, champion of the South Seas whaling interest. The latter were becoming increasingly frustrated with the EIC’s monopoly of trade and shipping in the seas south and east of the Cape of Good Hope and south and west of Cape Horn.⁷

In his 1961 study of the EIC, C.H. Phillips, provides a clue to the direction in which the “junta’s” policy-making was taking, and perhaps the reasons for their secrecy.⁸ With its own standing army and bureaucracy, the Company virtually behaved as an independent State, whose stakeholders simultaneously controlled the British Parliament. The EIC’s focus had increasingly shifted from a purely commercial enterprise to costly political embroilment in the affairs of the Indian princes that threatened not only the Company but also the British Treasury, with bankruptcy. It had also threatened the prestige of the British navy, who suffered a number of minor defeats at sea against the French, when their ships at the Eastern Station were unable to complete necessary repairs in 1778.⁹ The decision to establish the Botany Bay settlement was made at a time when heightened French commercial activity in India and French maritime exploration threatened to provide it with strategic bases and control of economic resources that Britain felt jeopardised its future maritime and

⁶ Margaret Steven, *Trade, Tactics and Territory. Britain in the South Pacific, 1783-1823*. Melbourne, 1983, pp. 9ff.; E.A. Stackpole (1972), *op.cit.*, pp.62, 116. Jenkinson, later Lord Hawkesbury, was Chairman of the Committee of the Board of Trade and Plantations which met in 1785 to hear evidence from Enderby, Champion and others concerned with developing the Southern Whale fisheries.

⁷ There is strong circumstantial evidence of a causal link between “free-trade” political machinations of Pitt’s government, the southern whaling interests and the founding of Botany Bay that have been discussed at great length by Edouard Stackpole, Margaret Steven, and Gordon Jackson and others. See especially Stackpole, *ibid.*; Margaret Steven, (1983), *ibid.* Gordon Jackson, *The British Whaling Trade*, Research in Maritime History Series, No. 29, International Maritime Economic History Association, St Johns, Newfoundland, 2005, pp.81-104.

⁸ Phillips, *op.cit.*.

⁹ Admiral Sir George Young (father of London shipowner G.F. Young), a promoter of the colony, was one of those involved in an engagement against the French at the Battle of Pondicherry in August 1778, who had experienced these scarcities at first hand. Alan Frost, ‘The Choice of Botany Bay: the Scheme to Supply the East Indies with Naval Stores’, *Australian Economic History Review*, Vol. 15, No. 1, March 1975, p. 12.

economic power.¹⁰ Dundas, commenting on the projected signing of a secret commercial treaty with the newly formed French EIC, suggested to Grenville “I mention the chance of the dissolution of the monopoly of the EIC ...you will agree with me there are events which may lead to such a dissolution”.¹¹ The new treaty was intended to replace the EIC’s role in remitting Indian revenues to England.¹² In September 1787, on the successful conclusion of trade negotiations with the French by Eden, Dundas began preparation of a bill declaring British sovereignty over all British possessions in the East Indies.¹³ Despite the British government opting to honour EIC’s debts, the bill failed to secure a majority in the reconvened Parliament, due an overwhelming number of its Members being EIC’ stakeholders. Ultimately, however, through its assumption of political and military responsibilities in India, the British Government obtained the “Jewel in the Crown”.¹⁴

To some considerable degree Britain had created a rod for its own back. From the beginning of the seventeenth century it promoted and encouraged British investors through the granting of monopolies and bounties, and through its Mercantilist’ policies, protecting British shipping. The British Navigation Laws of 1651 and 1673 restricted the importation of products into Britain to British ships manned by British crews.¹⁵ The 1663 Staple Act ensured that colonial possessions were developed to supply goods and raw materials to Britain that were unavailable in the home country. These materials were to be paid for in manufactured goods supplied to colonists. British colonists were also strongly discouraged from any other external trade. Various Tariff Acts gave British industry and agriculture protection by imposing an impost on a variety of imported goods.¹⁶ Protectionist policies created an artificial expectation among British investors that they could expect government support and

¹⁰ The first fleet’s arrival at Botany Bay beat a French exploration party by a narrow margin. Settlements at Port Dalrymple, Swan River, Port Essington, as well as the declaration of British sovereignty over New Zealand had all been motivated by such fears.

¹¹ Dundas to Grenville, 27 September, 1786 in H.M.C., Dropmore, I, 268), cited in Phillips, *ibid.* p.48.

¹² *Ibid.*

¹³ Chatham Papers, PRO: Vol. 157, 19 September 1787, quoted in C.H. Phillips, *ibid.*, p.49 & footnote.

¹⁴ For a detailed discussion of the events see Phillips, *op.cit.*.

¹⁵ Testimony of J.G.S. Lefevre, 9 March 1848, to the *Select Committee on the British Navigation Laws*, *op.cit.*, B.P.P.,First Report, questions 1-74, pp. 3-11.

¹⁶ Lefevre, *Ibid.*

incentives. They were also increasingly detrimental to British consumers, and to the British economy, driving up the price of raw materials and creating a negative trade balance.¹⁷ British protectionist policies were slow to change. The fact that they did change, despite serious internal opposition, particularly from the EIC and London shipping-owners, was in some small way due to pressure from Australasian traders and ship-owners, (particularly those with British business links) as well as the more significant opposition from Britain's northern manufacturers and the effects of retaliatory policies introduced by the United States and France.

Early Challenges:

The EIC's early concerns regarding the proposed settlement at Botany Bay proved to be well founded. The urgent necessity for basic food and clothing supplies for the early settlement provided the rationale for the establishment of commercial relationships with private country traders in India and the Cape of Good Hope, such as Campbell & Co., Fairlie, Ferguson & Co., and Alexander Berry. One of the first EIC's test cases was the seizure of Wilson and Campbell's ship *Lady Barlow*, when she arrived in London with a cargo of colonial produce worth £7,000 without an EIC licence.¹⁸ While Sydney merchant Robert Campbell suffered serious financial loss by the incident, it nonetheless highlighted to the British Board of Trade and the Treasury the difficulties of establishing a viable commerce in the colony.¹⁹

On the 22 December 1806 the Board of Trade advised the EIC's Court of Directors that it intended "to prepare instructions for the future Government of the shipping concerns of the Colony on a plan suited to provide the inhabitants with the means of becoming by degrees less and less burdensome to the Mother Country, and framed in such a manner to interfere as little as possible with the trade, the navigation, and the resources of the EIC".²⁰ The Chairman and Deputy Chairman of the Company were requested to attend a meeting of the Privy Council to draft a bill for the regulating of

¹⁷ See Steven, (1983), *op.cit.*, pp. 13-14; M. Greenberg, *British Trade and the Opening of China 1800-42*, Cambridge University Press, Cambridge, 1951, p. 64.

¹⁸ Robert Campbell Papers, Appendix to Bigge Report, Mitchell Library, BT, Box 23, pp. 4559ff; *HRA*, Series 1, Vol. 5, p.9.

¹⁹ C.E.T. Newman, *The Spirit of the Wharf House*. Sydney 1961, pp.30-33.

²⁰ *Ibid*, p. 32.

trade of NSW. The Board of Trade had little success in bringing the Company to heel on this occasion, probably due to the larger preoccupations of a European war and a change in government.²¹ In August 1807 the Company put on record its “systematic objection to the encouragement of trade between NSW and settlements in the East.”²² In 1808, it obtained an ally in Lieutenant-Colonel Foveaux, who seized another of Campbell’s ships the *Rose*, and her cargo of skins, in the Company’s name, when its shipmaster refused to carry despatches justifying his officer’s rebellion.²³

Early NSW enterprise was caught between the EIC, which tightly controlled the issue of licenses to British shipping within its charter, and British navigation laws that made it unlawful for British colonies to admit or trade with foreign shipping.²⁴ Nevertheless, there is clear evidence that these regulations had been officially disregarded. Macquarie admitted to Bathurst on 8 March 1816 that he hoped that following a British treaty with America, American trade with the colony would be resumed.²⁵ He acknowledged it was the “Uniform Practice” of his predecessors (all of whom, he pointed out, were Naval Officers) to admit American ships entry to the Port of Sydney. Possibly disingenuously he mentioned the recent arrival of an American ship, the *Traveller* from Canton, with a cargo of teas and other merchandise partly freighted on account of Walter Davidson, a private British merchant at Canton. This American schooner, Macquarie informed Bathurst, was the forty-second American vessel trading in NSW since 1792, and the first admitted since 1812. After being admitted entry the *Traveller* was subsequently seized as a prize (in Macquarie’s absence from Sydney).²⁶ Macquarie enclosed a list of American ships granted entry

²¹ See especially, M.J.E. Steven, ‘Exports other than wool’, in G.J. Abbott, & N.B. Nairn, *Economic Development of Australia, 1788-1821*, Melbourne University Press, Carlton, 1969, pp.293-4; and C.H. Phillips, *op.cit.*.

²² Newman, *op.cit.*, p.34.

²³ Steven (1965), *op.cit.* p.173.

²⁴ Bathurst sent Macquarie a timely reminder of these laws in 1816, recommending he acquaint himself thoroughly with the relevant British laws and regulations, Bathurst to Macquarie, 18 April 1816, *HRA*, Series 1, Vol. 9, pp.109.

²⁵ Macquarie to Bathurst, 8 March 1816, *HRA*, Series 1, Vol. 9, p.47.

²⁶ The *Traveller* had been seized on the complaint of Rev. Vale and the Attorney-General W.H. Moore. While Macquarie disclaimed any responsibility for the seizure, he may well have been pleased with the opportunity provided by the seizure to subtly attack Davidson, whom he elsewhere criticised as a large non-resident landowner, W.H.Moore, who was a repeated victim of his ire, and his predecessors, all of

into the colony from 1792 to 1813.²⁷ Only one quarter of these was positively connected with the fisheries, while almost one half were trading with India and China, and therefore directly threatening the EIC's monopoly.

Increasingly, from the end of the American War of Independence, American ships and traders were gaining a substantial economic foothold both in the Far East and in the southern oceans.²⁸ In the southern oceans, American ships provided a significant challenge to British whaling and sealing interests, while in the Northern Pacific they vied with British companies for the lucrative fur trade, and access to the Cantonese markets.²⁹ Neither the British Navigation Acts nor the EIC's monopoly hampered independent American States from exploiting potential sources of profit as they did for British colonies. Despite British attempts to decimate America's whaling fleet by blockade, privateering and exploiting Nantucket's neutrality, American fleet numbers rapidly recovered after the War, and by the mid-1830s, an estimated six hundred or more American whalers were engaged in the southern whale fishery, compared with less than one hundred English whalers.³⁰

Private traders and the southern whaling interests had won several important concessions by 1793, but the distractions of an imminent war secured the EIC's survival for another twenty years. Northern British manufacturers were particularly vocal in their attack on the EIC's monopoly of the export trade.³¹ In its 1813 Petition to Huskisson, the Manchester Chamber of Commerce claimed "freedom of commerce

whom were Naval Officers. Macquarie in fact did not escape admonishment for his own conduct. *HRA*, Series 1, Vol. 9, pp.42-48; 206-7.

²⁷ Macquarie to Bathurst, 8 March 1816, Enclosure 1, *HRA*, Series 1, Vol. 9, p.47.

²⁸ Letter from Enderby to Chalmers, 17 January 1789, Mitchell Library, MSA322, pp.499-501, noted that American whalers were already exploiting the sperm whale fishery around the Sunda Strait and Java. See also Allen Mawer, *Ahab's Trade. The Saga of South Seas Whaling*. St Leonards, 1999, p. 81.

²⁹ H. B. Morse, in *The Chronicles of the East India Company trading in China, 1635-1834*, described the growth of a "highly profitable and deeply irritating" private carrying trade after 1789 carried out by (among others) an American merchant, William Rogers of New York until interrupted temporarily by the outbreak of the Anglo-American war in 1812, Vol. III, p. 108, quoted in M. Greenberg, *British Trade and the Opening of China 1800-1842*, Cambridge, 1951, p. 84.

³⁰ Stackpole, *op.cit.*; Allen Mawer, *loc cit.*

³¹ *Ibid*, pp.75-78. Challenges to the E.I.C. monopoly were of course most marked within the period 1785-1793, leading up to the twenty-year renewal of the Company's charter until 1813.

as the birthright of all Britons.”³² By 1813, when the EIC’s charter was again renewed, a combination of British whaling interests, London merchants and shipowners and northern textile manufacturers had successfully lobbied the British Government to limit the Company’s monopoly to China.³³ However, it failed to provide any immediate benefit to either the British Australian trade or to colonial shipping interests. British navigation laws prohibited vessels under 350 tons burthen from navigation within the EIC’s charter.³⁴ This acted not only as a discouragement to an efficient and profitable transport of the smaller cargoes required by the Australian colonies, but also discouraged the colonial shipping interest from investing in shipbuilding.

It is against this backdrop of international and British domestic events that the NSW colony was established, and the colonial maritime business community emerged during the period 1788-1821. The cessation of war in 1815 did not significantly alter political tensions and arguably was a pyrrhic victory from which Britain emerged with significant financial and social problems. These included a serious budget deficit requiring the immediate dismantling of a Navy of 140,000 men, and the retirement of many Naval Officers on half-pensions.³⁵ However, the cessation of conflict did have some significant advantages for merchants and merchant shipping, including the ability to voyage the seas relatively unmolested and without naval escort, and of course, readier access to a large skilled labour force. Within three years the number of convict transports to NSW trebled, and with them came an influx of imported goods,

³² Quoted in *Ibid.*, p.179.

³³ Stackpole, *op.cit.*, esp. pp.51-87; W.S. Campbell, ‘The East India Company and the Australian Trade’, *RAHSJ*, Vol. 4, Part V, 1918, p. 246.

³⁴ *HRA*, Series 1, Vol. 10, Footnote 7, p. 809 – By the 32nd section of the Statute, 53 George III, cap. 155, it was enacted “That no Ship or Vessel, the registered measurement of whereof shall be less than 350 Tons, shall sail or pass in any of the Seas to the Eastward of the Cape of Good Hope, or to the Westward of the Streights of Magellan, without a licence from the Board of Commissioners for the Affairs of India specially authorizing the same” [*sic*]. By the statute 35 George III, cap. 92, Sections 7, 19 and 20, navigation between GB and NSW was also restricted to ships and vessels of not less than 350 tons burthen. These two statutes prevented the shipment of small cargoes of imports and exports.

³⁵ Peter Kemp, *The British Sailor: A Social History of the Lower Deck*. London 1970, p. 189. The Naval establishment was reduced by 120, 000 men within two years of the end of the Battle of Waterloo. Britain did not create a standing Navy until 1857, and therefore relied on a system of impressment when it failed to recruit sufficient men for its fleet by voluntary means.

and a small but steadily increasing number of emigrants with capital.³⁶ The NSW maritime community also benefited from the dismantling of the wartime Royal Navy, gaining many of its officers, skilled tradesmen and seamen.

However, in 1818 a crisis arose when the Colony, already officially deprived of trading with foreign ships and frustrated by the British tonnage laws, was informed that Earl Bathurst had forbidden shipmasters of convict transports from carrying cargo for sale in the colony either on their own account, or on account of other merchants.³⁷ The instruction was imposed on the grounds that the cargoes frequently impinged on the space allotted to convicts. Macquarie expressed great dismay regarding the new regulation, suggesting it would promote the continuance of that “most strict and rigid Monopoly” of the local market established by Sydney merchants, Jones and Riley, by discouraging the competition afforded by the importation of merchandise on the convict transports. Macquarie alleged Richard Jones and Alexander Riley, or their London representatives, Bell and Wilkinson, instigated the prohibition.³⁸

Macquarie delayed issuing the proclamation curtailing the shipment of merchandise on convict transports until October 1818, five months after receiving Bathurst’s instructions, enabling a number of convict transports to discharge their cargoes.³⁹ Just one month later he suspended it. He justified his actions on the grounds that the market price for some merchandise had risen by more than one hundred per cent from October to the 21 November 1818, when he suspended the newly introduced Regulation. Macquarie was scathing in his condemnation of the merchant house of Jones and Riley, claiming them responsible for the local price rises.⁴⁰ He asserted that

³⁶ C. Bateson, *The Convict Ships, 1787-1868*, Glasgow, 1959/1985, compiled a list of all the convict ships arriving in the Australian states from 1800 onward, providing a useful basis on which to calculate annual figures as well as total arrivals for each colony. Colonial Secretary’s Reports of Vessels Arrived, 1826-1850, SRNSW, 4/5198-4/5236, Reels 1263-1276, provides the best source for the arrival of free immigrants.

³⁷ Bathurst to Macquarie, 12 December 1817, *HRA*, Series 1, Vol. 9, pp. 557-8. The prohibition was the result of Bathurst’s Despatch No. 101 of 1817, received by Macquarie on 11 May 1818.

³⁸ Macquarie to Bathurst, 1 March 1819, *HRA*, Series 1, Vol. 10, pp.18-20.

³⁹ This would have enabled the discharge of merchandise from four convict vessels, the *Glory*, *Isabella Maria*, and *Tottenham*, that arrived during that five-month period. See Charles Bateson, *The Convict Ships*. Brown, Son, & Ferguson, Glasgow, 1959, Appendix 1, p. 292.

⁴⁰ Macquarie to Bathurst, 1 March 1819, p.20.

after he suspended the Regulation, prices levelled out “and the Public is for the time relieved from a Weighty Calamity”.⁴¹

Forging Private China Trade Links:

Macquarie’s assessment of the local situation, suggests a certain degree of political and commercial naivety. Jones and the Riley family had commercial and political connections spanning several continents, indirectly linking them (through John Macarthur and Walter Davidson) to such London banking and commercial and shipping firms as Baring & Smith & Co., Fairlie, Ferguson & Co., Herries, Farquhar & Co, to British Members of Parliament, and ultimately to the Prince of Wales.⁴² Jones arrived in NSW from London as a merchant and agent for Bell and Wilkinson in August 1809, and from May 1815, acted as agent for the Bombay firm of Forbes & Co., importing spirits. In 1815, he formed a partnership with Alexander Riley in Sydney, who was replaced by his brother Edward in 1817, when the former retired.⁴³ Edward Riley, incidentally, had married Ann Wilkinson at Calcutta in 1813, thus cementing a long business association between the Australian company of Jones and Riley, and the London firm of Bell and Wilkinson.⁴⁴ While Edward remained in Calcutta until 1817, acting as Alexander’s agent there, Alexander also established an important China connection through Walter Davidson, thus establishing a triangular trade linkage between NSW, India and Macao.⁴⁵ It was the very type of trade connections that the EIC so feared when the plan for the colony had first been formally discussed in 1785-6.⁴⁶

⁴¹ *Ibid.*

⁴² Alexander Riley Papers, 1804-1838, Mitchell Library Microfilm CY 901 (frames 402-573: A1208; Riley family papers, Vol. 3); M. Shineberg, ‘Jones, Richard’, *Australian Dictionary of Biography, op.cit.*, Vol. II, pp. 24-25; Jill Conway, ‘Riley, Alexander (1778?-1833)’, *ibid.*, pp. 379-381; Jill Conway, ‘Riley, Edward (1784-1825)’, *ibid.*, pp. 381-382; D. Pike, ‘Davidson, Walter Stevenson (1785-1869)’, *ibid.*, Vol. 1, p. 290.

⁴³ Alexander Riley returned to England in 1817, and joined the London firm of Bell & Wilkinson, of which he remained a partner until his death in 1833. Papers of Alexander Riley, ML MSS A107, A108.

⁴⁴ Edward Riley Papers, 1813-1907, ML Box A5326, Item 2.

⁴⁵ Papers of Edward Riley, *ibid.*, Letters from Sydney, ML MSS Safe 1/50, and Papers of Alexander Riley, *ibid.*, ML MSS A107, A108.

⁴⁶ Dalrymple to the Court of Directors of the East India Company, 13 July 1785, NLA, *Papers of Alexander Dalrymple (1737-1808)*, MS 43, 4 ff.; A. Dalrymple: Memorial, dated 1 September 1786, entitled *A Serious Admonition to the Public on the Intended Thief Colony at Botany Bay*. NLA. MS43, copy, 2ff.

Davidson by-passed the EIC's monopoly by representing himself in China as a Portuguese Consul, a tactic commonly employed by English "country" merchants.⁴⁷ By 1817, he had enlisted as partners "Sardinian Consul" Thomas Dent and his brother Lancelot, to engage in a trade centred on Indian cotton and opium, and Chinese teas, partly employing American shipping free from the restrictions of the Company's monopoly. By the time Macquarie complained to Bathurst, Edward Riley's brother, Alexander, had already returned to England to join the London firm of Bell and Wilkinson as a partner, specialising in its Australasian affairs.⁴⁸ Jones (Davidson's Sydney agent) meanwhile visited Davidson in Macao, apparently with the intention of raising further capital to fund their joint pastoral interests in NSW, which was to include the importation of purebred Saxony sheep into the colony.⁴⁹ Davidson was to extend his pastoral interests in the colony further through his investment in and Directorship of the Australian Agricultural Company.⁵⁰ Meanwhile, Edward Riley commenced sealing operations in New Zealand, employing the ships *Governor Bligh*, *Samuel* and *Mercury*.

The firm of Jones and Riley received an additional financial boost, with the arrival of William Walker, in March 1820, on the *Haldane*.⁵¹ Walker had previously visited Sydney in July 1813, in his capacity as agent for the Calcutta firm of Fairlie, Ferguson and Co., with the task of collecting debts owed them by Robert Campbell.⁵² In July 1820, Walker joined Jones and Riley, in the new firm of Jones, Riley and Walker. During the 1820s, their joint capital enabled them to invest in the pelagic whaling industry. Jones, Riley and Walker had a financial interest in the English-registered whaler, the *Woodlark*, together with its captain, Joseph Moore, who later joined the

⁴⁷ M. Greenberg, *British Trade and the Opening of China 1800-42*. Cambridge University Press, 1951. W.E. Cheong, *Mandarins and merchants. Jardine Matheson & Co., a China Agency of the Early Nineteenth Century*. Scandinavian Institute of Asian Studies Monograph Series, No. 26. Curzon Press, 1979. See also Margaret Steven (1983), p. 50.

⁴⁸ Papers of Edward Riley, 1813-1907, Letters and Documents 1813-1825, ML A5326, Item 2; Riley, Alexander: Papers, 1804-1838: Mitchell Library Microfilm CY 901 (frames 402-573: A1208; Riley family papers, Vol. 3).

⁴⁹ Jones to Murray, 18 May 1829, *HRA*, Series 1, Vol. 15, pp. 759-761; W.S. Davidson to Murray, 18 November 1829, *ibid.*, pp. 400-2. See also D. Shineberg, *op.cit.*, p. 24.

⁵⁰ Davidson to Murray, 18 November 1829, *HRA*, Series 1, Vol. 15, pp.400-2.

⁵¹ Carol J Baxter (ed), *General Muster and Land and Stock Muster of New South Wales, 1822*, ABGR in association with Society of Genealogists, Sydney, entry for William Walker.

⁵² Macquarie to Bathurst, 7 October 1814, with enclosures, *HRA* Series 1, Vol. 8, pp. 338-350.

firm as ship's husband.⁵³ By 1825, when Jones returned to NSW, the firm had invested in another five other whalers – the *Pocklington*, *Harriet*, *Mercury*, *Saracen*, and *Alfred* – while employing the 212-ton barque, *Juno*, for the New Zealand trade.⁵⁴ While the vessels were still registered in Great Britain, the firm could boast of having the first colonial whaling fleet.⁵⁵

William Walker already had a family connection in the colony, Captain Robert Stewart Walker, who as master of the *King George* and the *Dragon* voyaged extensively in the South Seas, trading with New Zealand, the South Sea Islands and in the Far East.⁵⁶ Their colonial network was further extended with the marriage of William's nephew, Thomas Walker to Ann Blaxland, (daughter of John Blaxland and sister of Captain George Blaxland, a whaling master) in 1823.⁵⁷ That “Sordid rapacious house”, so vehemently attacked by Macquarie in 1819 easily survived his onslaught.⁵⁸ With its powerful connections in London, Calcutta, Bombay and Macao, the firm continued to expand long after Macquarie was recalled. It employed carefully managed growth strategies, recruiting wealthy and influential connections, creating local opportunities in its maritime and pastoral environment, through the development of a local whaling industry, New Zealand and South Sea Island trades, and the wool industry.

From 1825 to 1831 Jones and Walker increasingly diversified into the pastoral industry, each importing carefully selected flocks of Saxony sheep, and obtaining (in

⁵³ 1828 Census Householder's Return SRNSW, CGS 1273-1274, Reels 2551-2552, Items 2506-7, entry for Joseph Moore.

⁵⁴ J.S. Cumpston, *Shipping Arrivals and Departures, Sydney 1788-1825*, Canberra 1964.

⁵⁵ Darling to Huskisson, 10 April 1827, *HRA*, Series 1, Vol. 14, p. 135; Jones to Murray, 18 May 1829, *ibid.*, pp. 759-62.

⁵⁶ When New Zealand missionary, William Hall, visited New South Wales in January 1826, he visited the property of William's eldest brother, James Walker, RN, at Wallerawang, the connection having arisen through his extensive contact with Captain Robert Stewart Walker, since 1816. Malcolm and Rosemary McLennan (eds.), *The Diary of CMS Missionary William Hall 1816-1838, Son of Carlisle-Maori Missionary*. Galston, NSW (privately published), NLA.

⁵⁷ Vivienne Parsons, 'William Walker (1787-1854),' *Australian Dictionary of Biography*, 1990, Melbourne, Vol. 2, p. 566.

⁵⁸ Macquarie to Bathurst, 1 March 1819, *HRA*, Series 1, Vol. 10, p. 20.

acknowledgement of their contribution) large government land grants to graze them.⁵⁹ While its virtual monopoly of the import market in British manufactures, Indian trade goods, and the China tea trade gradually waned as other eager and wealthy British investors (such as J.B. Bettington, Thomas Gore, Joseph Montefiore and Phillip Flower) came into the colony during the mid-twenties to early 1830s, they continued to play a substantial role in the import trade. Eventually the firm's members established individual entities - Richard Jones & Co., William Walker & Co., (and later Thomas Walker & Co), Ferriter & Uhr, Donaldson & Dawes, F. Petersen, and Joseph & Henry Moore – an indication of the firm's important role as business incubators.

The Commencement of Solidarity:

Up to 1818, most of the challenges to the EIC' charter and the navigation laws in NSW had been by individuals, such as Campbell and Simeon Lord, who had flouted existing laws. However, the crisis caused by the British government's decision to forbid convict transports to carry merchandise precipitated widespread anger among merchants and inhabitants. On 19 November 1818 they handed Macquarie a petition, protesting the prohibition in support his suspension of the regulation. In that petition the colonists argued there was a far higher demand for British manufactured articles than the very few local merchants have supplied. The prohibition would therefore seriously interrupt "the diffusion of the Manufactures of the Mother Country into these Settlements". The petitioners expressed even more strongly their opposition to colonial and British tariffs on local produce. Whatever Macquarie's own rationale for his actions, business interests in the colony were able to utilise the threat posed by the new regulation to their trade, and Macquarie's support, and turn it into a golden opportunity to challenge government tariffs.⁶⁰ Displaying a very conscious awareness

⁵⁹ SRNSW, 2/7894, *Colonial Secretary: Land Records*, Reel 1147; and *Insolvency Papers of Richard Jones*, 9 November 1843, CGS13654, 2/8761, No. 1043, Schedule B. Richard Jones' pastoral enterprises were partially financed through Walter Davidson, absentee owner of extensive land at the Cowpastures after October 1807 when he went to Canton. (Macquarie to Bathurst, 4 April 1817, and 12 December 1817, *HRA*, Series 1, Vol. 9, pp. 349 & 715; Davidson to Murray, 18 November 1829, *HRA*, Series 1, Vol 15, pp. 400-2.

⁶⁰ Macquarie to Bathurst, 1 March 1819, enclosing Petition, dated 19 November 1818, *HRA*, Series 1, Vol. 10, pp. 18-20. By two Acts – 53 Geo.III, Cap. 155, S. 32, and 35 Geo. III, Cap. 92, Sections 7,19,

of the mercantile interests that drove British policy, they alluded to the potential financial gains from promoting trade with the colony, and the existing rivals for that trade, particularly private British East India “country” traders.⁶¹ They used the opportunity to suggest modifying British navigation laws to allow British vessels over 150 tons to trade with the colony. This, they suggested, would significantly boost the NSW export trade, providing mutual benefits for both the British manufacturing industry and especially Australian primary producers “now much constrained by the want of Freight direct to Europe.”⁶²

Here was a business solution not suggested by Macquarie, and the law had been erratically enforced or evaded by previous NSW Governors, as it challenged the monopolies of both the EIC and certain London shipowners.⁶³ It provided a solution for British shipowners and merchants grappling with the problem of efficient usage of their ships in the Australia trade. If successful, it would provide a greater potential for colonial investors to either enter the shipbuilding trade or to purchase shares in smaller British-owned shipping. The Petition in fact represented phase one in the colony’s campaign against the British Navigation Laws. Their success proved to be a critical turning point not only for colonial commerce, but also ultimately for the British northern textile manufacturers and northern shipping interests.

Bathurst’s response to the petition to reduce tonnage limits and remove local tariffs on produce for transshipment came remarkably swiftly. On 4 August 1819 he transmitted two Acts, one permitting all ships without reference to their tonnage to trade between NSW and Great Britain.⁶⁴ The speed with which the Act in relation to tonnage was

and 20 shipping between the two countries had been restricted to vessels over 350 tons, thereby seriously discouraging merchant shipping with smaller, efficient freights.

⁶¹ An examination of shipping entries to Sydney during the period 1816-1819 in fact indicates that with the exception of Alexander & James Birnie’s ship, *Foxhound*, in October 1817 and Joseph Underwood, and A. Riley & Co’s. ship *Harriet* in 1817 and 1819, no other merchant ships arrived from England. Thus NSW relied almost solely on either convict transports or Calcutta “country traders,” for merchandise.

⁶² Petition of NSW merchants, shipowners & landholders, 19 November 1818, *HRA*, Series 1, Vol. 9, p.21.

⁶³ In his letter to Bathurst of 1 March 1819, Macquarie was somewhat apologetic for the audacity of the petitioners in suggesting such a change to the tonnage laws. *ibid.*, p.19.

⁶⁴ 59 George III, Cap. 122, enclosed in a despatch from Bathurst to Macquarie, and Macquarie to Bathurst, 23 February 1820, *HRA*, Series 1, Vol. 10, pp.246 ff.

passed, (barely three or four months after the local petition would have arrived on his desk) and without reference to tonnage limits, suggests that this Act was already under consideration, probably in response to the post-war glut in British merchant shipping.⁶⁵ The embargo on the carriage of trade goods by convict transports was resumed. John T. Bigge commented positively in his 1823 report that the removal of the limitation on the minimum tonnage on shipping from Great Britain to the colony had been beneficial on trade and prices, with the local market now receiving a “more extensive and better suited” supply of manufactured goods, and with the subsequent increase in competition “the very great profits” on imports formerly made by a few, now reduced to a 60-100% margin on prime cost.⁶⁶ He remarked that there were now twelve commercial firms importing goods into Sydney on their own account, including three ex-convicts. Nevertheless, despite the new law, the masters of convict ships were still importing freight, through the subterfuge of describing their freight as “ship stores” and were thus able to under-cut the prices of those importing goods on merchant ships.⁶⁷

The EIC and Foreign Trade:

One of the most serious issues Bigge noted arising from the imposition of tonnage limits by the British Government had been the encouragement given to the American shipping industry.⁶⁸ He referred specifically to the China trade, and the challenge of competition to the principal Sydney merchants of consignments of teas through “the interference in this branch of trade by certain foreigners”, by “an American interest at Canton and the Isle of France.”⁶⁹ He complained that they have been able to “procure facilities for their trade, as well as protection for the vessel in which it is carried on.” This may have been an unwanted intrusion from the point of view of the British

⁶⁵ This “glut” impacting on British shipowners and the shipbuilding trades until 1825 has been identified and discussed by Sarah Palmer in *Politics, Shipping and the Repeal of the Navigation Laws*. Manchester 1990, pp.1-5.

⁶⁶ J.T. Bigge, *op.cit.*, p. 62.

⁶⁷ Bigge, *ibid.*, p. 63.

⁶⁸ *Ibid*, p. 60.

⁶⁹ *Ibid*. This interest may have been Captain Prosper De Mestre, a French-American, who arrived in command of the Magnet in 1818, securing citizenship shortly after. His actions in procuring a consignment of tea ahead of his competitor, an emancipist Edgar Eagar, caused the price the latter could demand in the local market to fall. See G.P. Walsh, ‘Prosper De Mestre,’ *Australian Dictionary of Biography, op.cit.*, Vol. I, p.305.

government and some local merchants, however in popular terms it resulted in a significant reduction in the price of tea. Local merchants were frustrated by EIC's monopoly from accessing tea directly from China. Instead they were forced to import it through Bengal, incurring much greater expense.⁷⁰ By the use of American shipping, China goods as well as other products from within the EIC's charter could be imported more cheaply.

Evidence collected by Bigge regarding alleged "interference" from American shipping interests in the colonial trade, reflected the commercial interests of a few parties rather than any widespread colonial sentiment on the matter.⁷¹ British merchant W.S. Davidson certainly used his American connections to freight tea to his Sydney agents, Jones and Riley, to the ire of some of their competitors. French-American settler, Prosper de Mestre, after arriving in Sydney on the *Magnet* in 1818, continued to use his business connections in America, China, India and Mauritius as an importer.⁷² His activities soon won opposition from rival, Edgar Eagar (an ex-convict), who denounced him as an American citizen, able to import tea through his countrymen in China and undersell some Sydney merchants who were forced to buy through the EIC. Eagar brought an action under an obsolete section of the 1600 Navigation Act (12 Car. II, c.18) which prohibited foreigners from trading in the King's Plantations. Had it been successful, De Mestre's property would have been forfeited, two thirds going to Government and one third to informant.⁷³ The complainants in these cases, as in many other colonial civil court matters against other merchants during the period did not necessarily reflect any widespread opposition to free trade so much as individual irritation that their business was exposed to

⁷⁰ Bigge, *op.cit.*, p. 60.

⁷¹ Transcripts of evidence to the NSW Commission of Inquiry, 1820-1, Appendix to J.T. Bigge's Report, Bonwick Papers, BT Box 23-5, ML.

⁷² SRNSW, 4/4771, *Colonial Secretary's Ship Musters*, Reel 561. This same vessel was to carry Richard Jones to Canton in October that year for meetings with Walter Davidson.

⁷³ De Mestre raised the issue of Eagar's convict origins, and the action was thwarted. As a result ex-convicts began to organise to improve status and protect rights. See 'The Humble Petition of the Emancipated Colonists of the Territory of New South Wales and its dependencies', enclosure to despatch from Macquarie to Bathurst, dated 22 October 1821, *HRA*, Series 1, Vol. 10, pp. 549-556. See also G.P. Walsh, *loc cit.*

unforeseen competition.⁷⁴ Complaints were made equally against arrivals of freight on British and “country ships” from India. Using similar tactics to that employed by the British Southern Whaling interests to frustrate the colonial fishery through the seizure of Robert Campbell’s ship the *Lady Barlow* in July 1805 on its arrival in London, the EIC’s monopoly (as well as British navigation laws) often provided a useful excuse to defeat business competitors.⁷⁵ It was indeed an aspect of the growing pains of a colonial business community.

Bigge’s concern reflected a constant theme in the history of the British shipping industry during the first half of the nineteenth century. It was the crux of an ongoing political war between protectionist and the free trade interests that was particularly acute during 1822-3 (when the British Secretary of the Treasury, William Huskisson signed a number of Reciprocity Agreements with America and European nations).⁷⁶ It was to re-surface during the inquiry into the British navigation laws during 1847-1848, with the final ascendance of the free trade movement in legislation passed in the British Parliament in 1849. This conflict will be discussed in Chapter Three. Bigge’s comments on the threat of American shipping should be seen in this context. Sarah Palmer suggested in her study of the repeal of the British navigation acts, that the “drive to pursue free trade into the port and shipyard was political” and “owed little to demands outside Whitehall and Westminster.”⁷⁷ Palmer’s observation may have reflected the attitudes of the majority of the British shipowners and merchants who gave evidence before the Select Committees during 1847-1848.⁷⁸ She did, however, overlook some key exceptions, most notably those representing Australian merchants and shipowners, including Samuel Browning (representing Benjamin Boyd), Frederick Parbury (a Sydney merchant) and David McLaren (Manager of the South

⁷⁴ A perusal of the *Sydney Gazette* during the period suggests that there was a very strong element of competition and distrust, particularly in the business relationships of ex-convicts. The litigiousness of this group frequently resulted in significant financial losses for all parties.

⁷⁵ See for example Margaret Steven, *Merchant Campbell 1769-1846*, Melbourne 1965, pp. 83-132; and W.S. Campbell, ‘The East India Company and the Australian Trade,’ *Royal Australian Historical Society Journal*, Vol. 4, Part V, 1918, pp.241-268.

⁷⁶ Sarah Palmer, *op.cit*, pp. 50-2, 69, 76-7.

⁷⁷ *Ibid*, p. 1.

⁷⁸ BPP, *Select Committee on the Navigation Acts, 1847 and 1848, Trade and Industry: Navigation Laws*, volumes 1 &2, reprinted by the Irish University Press, Shannon, 1969.

Australian Company).⁷⁹ The push for the dismantling of the British navigation laws, restrictive tariffs, and free trade generally, in fact received very strong backing from NSW throughout the first half of the nineteenth century, culminating in the NSW Legislative Council-initiated Petition of July 1847.⁸⁰

The Colonial Executive's Position:

If the colony benefited by some further slight adjustment to the EIC's charter in 1813, there were still some further skirmishes to be fought.⁸¹ One of the most embarrassing for the colonial government was the seizure of the ship *Almorah* on 18 February 1825, on charter to the government from Batavia, by the commander of H.M. ship *Slaney*, Captain Mitchell.⁸² In August 1824, after the price of wheat had risen to thirty shillings per bushel, Governor Brisbane instructed his Commissioner-General, William Wemyss, in September 1824, to charter the vessel for a voyage to Batavia, allegedly for a cargo of rice and flour only for the supply of those dependent on government stores.⁸³ The *Almorah* was seized when it became apparent that she was also carrying 300 chests of tea, as well as 288 bags of sugar, and the equivalent of 25,000 pounds in coin (in 53 boxes of 2000 dollars each). This was in clear breach of the British Navigation Laws and the EIC's charter. Brisbane disclaimed all knowledge of the illegal cargo. He accused Captain Mitchell and his men of having illegally seized or pirated the vessel and the "King's property", of firing at his officers, and taking the ship and her cargo to Calcutta. A report of the seizure in the local press, suggests that the capture was in fact a popular one, a "joke" which everybody enjoyed, most significantly because it was one of those "trading follies" opposed by "public opinion".⁸⁴ It was the penalty for government "interference" in private trade,

⁷⁹ Evidence of Samuel Browning, 16 March 1847, questions 830-1027, 18 March 1847, questions 1028-1372, and 23 March 1847, questions 1374-1509, pp. 80-133, B.B.P., *Select Committee on the Navigation Laws*, First Report (1847), Ordered to be printed by the House of Commons, 26 March 1847, Sessional Papers, Vol. 6, 1847 (*Trade and Industry: Navigation Laws*, Vol 1); .David McLaren, 27 April 1847, BPP, Third Report, Select Committee on the Navigation Laws, questions 3499-3558, pp.91-93, *ibid.*; Frederick Parbury, 23 March 1848, First Report on the Navigation Laws, (1848), questions 1360-1583, pp. 121-135, *ibid.*

⁸⁰ Published in the *Shipping Gazette and Sydney General Trade List*, 17 July 1847, p. 548.

⁸¹ This was the *East India Act* of 1813, 53 Geo. III, Cap. 155.

⁸² Brisbane to Bathurst, 4 March 1825, *HRA*, Series 1, Vol. 11, pp. 529-533.

⁸³ *Ibid.*.

⁸⁴ *The Australian*, 24 February 1825.

and a reflection on the invidious position of the Commissariat, existing side-by-side with an increasing private enterprise. The matter was subsequently reported to the Naval Commander of the Indian Station and Governor-General of India for prosecution of the perpetrators, as well as to Earl Bathurst.⁸⁵ In December 1825, Bathurst harshly chastised Brisbane for interfering with the speculation of private traders.⁸⁶ Bathurst, having received “representations” from the settlers, warned Brisbane that the Commissariat’s engagement in trade seriously undermined market demand and free trade, exposing private traders to potential ruin. He suggested that should government interference in trade continue the ultimate result could threaten the existence of the colony, as traders withdrew in the face of the Commissariat’s unfair market advantage.

The arrival of the ship *Valetta*, commanded by T.W. Phillips, with her cargo of tobacco, from Canton, via Hobart on 15 April 1825, provided yet another occasion for complaint against the EIC’s charter. Brisbane had received an application from two respectable merchants to have a ship’s cargo seized on the grounds that it contained a large cargo of American tobacco, and “Lascars”, not British seamen, manned the ship.⁸⁷ Brisbane informed Bathurst he chose not to act against the vessel, being of the opinion that the colony did not come under British Navigation Laws.⁸⁸ He ventured that while the issue might seem important to the EIC, in so much as NSW was receiving supplies from the United States, by way of China, it was to the direct benefit of local traders. In a rare flight into imperial policy issues by colonial governors, he added: “Freedom of trade upon general principles will probably be most advantageous for the colony”.⁸⁹

In fact what Brisbane failed to mention was equally important. Brisbane may not have seized *Valetta* for breach of the EIC charter, however her cargo was effectively quarantined by Customs. The *Valetta* carried the first shipment of tobacco for many

⁸⁵ Brisbane to Bathurst, and enclosures, 4 March 1825, *HRA*, Series 1, Vol. 11, pp.529-540.

⁸⁶ Bathurst to Darling, 30 December 1825, *HRA*, Series 1, Vol. 12, pp.130-135.

⁸⁷ Brisbane to Bathurst, 25 June 1825, *HRA*, Series 1, Vol. 11, pp.674-5.

⁸⁸ 7 & 8 William.

⁸⁹ Brisbane to Bathurst, 25 June 1825, *HRA*, Vol. 11, Series 1, p. 675.

months (with the exception of the *Almorah*). Her cargo of 99,956 pounds of tobacco, imported on behalf of Raine & Ramsay, could have been sold privately for 3s.6d. to 4s. per pound.⁹⁰ Instead, it was seized by Captain Piper, still acting as Customs Officer, and placed in Bonded Stores. Piper demanded payment of a duty of 4s. per pound, the maximum possible duty allowable under new laws that had just come in force.⁹¹ A potential net profit of almost £14,500 was effectively turned into a liability for the traders by the government's actions. The seizure of the *Traveller*, the *Almorah* and the request by several merchants to Brisbane to seize the *Valetta*, exploited the issue of the EIC's monopoly. However, in none of those cases were the protagonists representative of that Company. Rather, the Company's charter was exploited by trading interests, anxious to maintain their own advantage in the market place, against threatened competitors. These were similar to the ploy that had been used by the London English whaling interests against Wilson and Robert Campbell's ship, the *Lady Barlow* when she was seized after her arrival in London with over £7,000 worth of colonial produce in July 1805.⁹²

Huskisson, Free Trade and the Textile Interest:

Despite the distractions of war the EIC's success in maintaining its extensive charter did not survive concerted opposition, particularly after 1812, from the "free traders" in the British Parliament. Between 1813 and 1833 the Manchester Chamber of Commerce had been the leader in a concerted campaign for the cessation of both the EIC charter and for the adoption of principles of free trade (supporting both William Huskisson's Reciprocity Agreements from 1823, and the cessation of the Navigation Laws).⁹³ One of the major outcomes of the modifications to the EIC's charter in 1813 for Great Britain was to enable large-scale exportation of cotton-manufactured goods from the industrial mills in the Manchester area to India.⁹⁴ By 1827, the value of British cotton exports had risen to two-thirds of her total export products. However, those interested in the cotton-export trade to India (including indirectly, NSW

⁹⁰ Raine and Ramsay v. Piper, 6 August 1825, NSW Supreme Court, *Australian*, 11 August 1825.

⁹¹ A similar action, James v. Balcombe, was reported in the same newspaper.

⁹² Robert Campbell Papers, Appendix to Bigge Report, Mitchell Library, BT, Box 23, pp. 4559ff; *HRA*, Series 1, Vol. 5, p.9.

⁹³ Michael Greenberg, *op.cit.*, pp.179ff.

⁹⁴ By 1822, Britain was exporting cotton to the value of £3,700,000.

merchants, wool-growers and shipping agents) remained frustrated by the EIC's China monopoly.⁹⁵ It not only prevented the development of a potential China market but also seriously hampered the payment of remittances for cotton exports. While the issue may have seemed remote from the interests of NSW, close business and family ties existed between NSW shipping and pastoral interests and those active in the British campaign against the EIC and protective policies. The link between Sydney merchants and the northern textile manufacturers is perhaps no more apparent than in the chairmanship of a meeting of the Manchester Chamber of Commerce in 1841 by Sydney merchant A.B. Smith.⁹⁶

Among the most outspoken opponents of the EIC was William Huskisson, Secretary for the Treasury.⁹⁷ To such men, the EIC was but one aspect of a much larger project – the abolition of British trade protection policies. Huskisson in a despatch of 8 September 1827 wrote that “the commercial intercourse of the Cape of Good Hope, Mauritius, Ceylon, NSW, and Van Dieman's Land, with the Foreign Territories within the limits of the East India Co.'s Charter has stood since the first acquisition of these colonies of Great Britain upon a footing peculiar to itself.” He suggested that various British regulations enabled “the ships of all territories within the limits of the Company's Charter” to carry the produce of their own countries to other colonies.⁹⁸

Governor Bourke used Huskisson's circular as a legitimisation of his decision in 1834 to direct Customs Officers to admit the cargo of the schooner *Kaliopappa* (an American built vessel, registered in the Sandwich Isles, deemed Tahitian and owned by an Englishman) seized by them as being in contravention of British Navigation

⁹⁵ The East India Company and private traders had in fact encouraged both Indian cotton manufactures and Chinese quality silk-manufactures. The latter was undermined when Huskisson removed prohibitions from the importation of raw silk into Great Britain in 1824. Neither Indian nor Chinese home-industries could compete with Britain's industrialised textile industry, which after 1840 was also flooding the Chinese market with woollen products.

⁹⁶ Reported in the *Sydney Free Press*, 14 August 1841. Andrew Blowers Smith was principal in the firm of AB Smith & Co. of Sydney, and partner in the Sydney firm of Smith & Co, including his brothers Henry Gilbert, William and Alexander. The firms were involved in shipping, immigration and the wool trade. They also acted as agents for the Liverpool wool merchants, William Smith & Co. See Smith & Son to Stanley, 4 November 1842, *HRA*, Series 1, Vol. 22, pp. 404ff.

⁹⁷ Palmer, *op.cit.*, pp.50-1.

⁹⁸ W.S. Campbell, *op.cit.*, p. 267.

Laws and the Company's Charter. Bourke directed the Captain of the vessel to disembark his cargo for "Home consumption", on bond to deliver British manufactured goods and colonial produce to the value of at least three quarters of the goods landed.⁹⁹ Bourke considered the few vessels trading between the Sandwich Islands and Port Jackson, as "privileged and free", a local regulation, having placed it on the same footing as the Coasting Trade".¹⁰⁰ Bourke also referred to recent correspondence received from the Home government with regard to the registration of vessels built in New Zealand. Bourke strongly supported commerce between NSW and the South Sea Islands.¹⁰¹ This was in fact a very broad interpretation of what could at best be described as baffling and complex laws embedded in the various British Navigation Acts. However, the EIC were no longer in any position to challenge his actions.

In 1833, Parliament passed an Act bringing the EIC's monopoly in China to an end, ordering the Company to close its commercial operations, and sell its commercial assets at home and abroad.¹⁰² Sydney merchants and the colonial shipping interests generally, and their allies in the free trade movement, especially those representing the British northern textile manufacturers, had won an important victory.¹⁰³ Acting either jointly or independently the local shipping interest had overturned burdensome local and British duties and tariffs that had discouraged local shipping and the export trade. They had been successful in their bid to have Sydney and Hobart declared free warehousing ports, and had placed pressure on the Colonial Government to speed up the process of surveying and releasing prime real estate at Darling Harbour and on the northern foreshores of Sydney Harbour for wharves and warehousing. The defeat of the EIC's trade monopoly in Indian and Pacific waters, and its exclusive rights over the Chinese tea trade did not, however, prove to be the climax of their political

⁹⁹ Bourke to Spring Rice, 30 June 1834, *HRA*, Series 1, Vol. 17, pp. 459-60

¹⁰⁰ 11 Geo. No. 6, Section 42, dated 19 March 1830, *ibid.*

¹⁰¹ *Ibid.*

¹⁰² Quoted in W.S. Campbell, *op.cit.*, p. 268. In 1858, under the India Act 1858 21 and 22 Vic. Cap. CVI, the Company ceased to exist.

¹⁰³ Sydney merchant, Andrew Blowers Smith, played an active role chairing meetings of the Manchester Chamber in 1841, *Sydney Free Press*, 14 August 1841. Sydney merchants and wool exporters, Aspinall & Browne also had close links to Liverpool textile manufacturers. See also Michael Greenberg, *op.cit.*, pp. 179ff.

manoeuvrings. Rather it served to encourage a political activism that ended with the defeat of the British Navigation Laws, and the triumph of laissez-faire.

CHAPTER 3: THE SHIPPING INTEREST AS A POLITICAL PRESSURE GROUP

The NSW shipping interest had demonstrated a capacity to act both individually and jointly to successfully overcome legal obstacles and regulations that hampered their prospects for mercantile success. This Chapter discusses two of the major remaining legal obstacles identified by some members of the local shipping interests, namely the British navigation laws protecting British shipping, and merchant seamen's laws.¹ Visiting shipmasters and local merchants were frustrated by ambiguous British legislation hampering them from prosecuting cases of recalcitrance on the part of some seaman arriving in the colonies from foreign ports. Frequently, both visiting British and foreign ships, as well as colonial vessels were left idle for months in Sydney harbour, awaiting the jurisdiction of special Vice-Admiralty Court sittings.²

In 1832 NSW introduced its own law to address what the shipping interest and legislators considered to be serious deficiencies in British navigation laws.³ This local Act treated absences and desertion as identical offences. But the Act was a failure, as men signing articles of agreement on British and foreign ships continued to desert either in favour of better wages, or more personal factors. The Merchant Seamen's Act was designed, primarily, to ensure there was a pool of experienced seamen available to the British Navy in case of war. In 1835 the British Parliament altered the Act with a view to improving the registration system, but also to improve

¹ The protection of British shipping and the laws "protecting" merchant seamen were technically both part and parcel of a swag of legislation dating from the seventeenth century onward, referred to as the British Navigation Laws. Evidence of JGS Lefevre, 9 March 1848, First Report, Select Committee on the Navigation Laws, *op.cit.*, pp. 3-11.

² In one instance a British ship, the *Gilmore*, had been detained at Sydney some months while various Courts heard evidence regarding disputed desertion and wages claims, *Sydney Gazette*, 18 September 1830.

³ An Act for the Better Regulation and Government of Seamen, 2 George IV, No.10, *NSW Government Gazette*, 28 March 1832, pp.29-32, was quickly superseded by the NSW Merchant Seaman's Act of 1832 (2 William IV, 10), as local shipowners and merchants attempted to avoid intervention by the British Board of Trade in local matters. For a thorough examination of the complexities of these matters see three articles by Michael Quinlan, 'Making Labour Laws Fit for the Colonies: The Introduction of Laws Regulating Whalers in Three Australian Colonies: 1835-1855', *Labour History*, Vol. 62, May 1992, pp.19-37; 'Balancing Trade and Labour Control: Imperial/Colonial Tensions in Relation to the Regulation of Seamen in the Australian Colonies 1788-1865', *International Journal of Maritime History*, Vol. 9, No.1, June 1997, pp.19-56; and 'Regulating Labour in a Colonial Pretext: Maritime Labour Legislation in the Australian Colonies, 1788-1850', *Australian Historical Studies*, No. 111, 1998, pp.303-324.

safety at sea through formal apprenticeship, and to protect seamen's wages and conditions from the abuses of some shipmasters, and shipowners.⁴ Under the new Act, the Vice-Admiralty's Court could seize vessels while seamen's wage cases were heard.⁵ The Act encouraged lawyers to act for seamen *pro bono* (with their fees being charged to the ship). This, together with the slow rate at which the Court determined cases, proved costly to shipowners and shipmasters alike.⁶ Regardless of whether they won or lost the case, shipowners and shipmasters were the losers, as they were forced to pay the Court's marshal for the release of their vessel (the seamen generally being virtually penniless), and often paid demurrage costs as well.⁷

In November 1836 a meeting of shipmasters in Sydney petitioned the Governor to redress defects in the law relating to merchant seamen either by amending the 1832 Act or vigorously enforcing the imperial Act of 1835, especially with regard to crimps.⁸ In March 1837, a large group of shipowners met in Sydney to discuss wage demands made by seamen and wharf labourers servicing the whaling fleet.⁹ The shipowners viewed the wage demand "as the acts of a systematic organised body whose intentions ...would materially retard the progressive Advancement of our Colonial marine."¹⁰ Shipowners were convinced the Sydney shipping interest would be seriously injured by the wage demand, and agreed to resist it.¹¹ The meeting was so very broadly representative of Sydney shipowners that it amounted to a combination or cartel.

⁴ *Merchant Seamen's Act (Sir James Graham's Act)* (1835) (5 & 6 Wm. 4C.19) An Act to Amend and Consolidate the laws relating to Merchant Seamen of the United Kingdom, and for forming and maintaining a register of all the men engaged in that service under the scrutiny of the Board of Trade.

⁵ *Lyons v. Marshall (Court Sheriff)* *Shipping Gazette and Sydney General Trade List*, 23 November 1844, p. 236-7. This was an action taken by the owner of the colonial whaler *Jane*, Samuel Lyons, for the release of his ship after he had won a wages case brought by a sailor. As the sailor could not afford to pay either the court costs or the possession fee, the Marshall had retained possession of the ship.

⁶ Robert Towns in an Address to a public meeting of merchants, shipowners and shipmasters at the Royal Hotel, Sydney on 25 January 1848, *Shipping Gazette and Sydney General Trade List*, 19 February 1848.

⁷ *Ibid.*, 23 November 1844, p. 236-7.

⁸ *Sydney Gazette*, 15 November 1836.

⁹ Letter from the shipowners, dated 14 March 1837, quoted in W.J. Dakin, *Whalemen Adventurers in Southern Waters*, Angus & Robertson, Sydney 1977, Chap. 4. The seamen and labourers were demanding a daily increase from 3 shillings to 4 shillings.

¹⁰ *Ibid.*

¹¹ Among those signature to the letter were Richard Jones, John Jones, Robert Campbell Jnr. & Co., Prosper de Mestre, George Weller, Campbell & Co., William Walker & Co., and Robert Duke and others.

The group formally commenced in January 1837 when Sydney merchants connected with the shipping industry held a meeting to form an association “to cooperate with the recently instituted” NSW and Van Diemen’s Land Commercial Association established in London May 1836.¹² That Association consisted of members of the pastoral and shipping interest engaged in the Australia trade. It included William Walker, Aspinall, Browne & Co., Donaldson, Wilkinson & Co., John Gore & Co., Buckles, Bagster & Buckles, the Montefiore Brothers, and of course Robert Brooks.¹³ It was designed as a lobby group to press the interests of the merchants and shipping industry in the Australia trade and to advocate for the regulation of the wool trade in London.¹⁴ The London firm of Donaldson, Wilkinson & Co. already acted for a number of NSW pastoral and shipping identities including the Macarthur family, Sir John Jamison, Richard Jones, W.S. Davidson and Thomas Street.¹⁵ At least part of the initiative for the Association’s formation arose out of early discussions between shipowner Thomas Street (on behalf of Sir John Jamison) and Alexander Riley in London in 1833.¹⁶ If that is true, it predated the changes in the Merchant Seamen’s Act.

The Sydney meeting was the beginning of a concerted campaign by visiting shipmasters and local merchants for the amendment of the Merchant Seamen’s Act and changes to the British Navigation Laws. Fourteen months later, another meeting signed a petition to amend the Act, after 160 deserting seamen from fourteen merchant ships created a logistical and financial nightmare on Sydney wharves.¹⁷ In an unsuccessful test case in August 1838, Captain Roxburgh, commander of the English merchant ship the *Duchess of Northumberland* brought an urgent charge of

¹² Spark, 12 January 1837, *op.cit.*, p. 73; Frank Broeze, *Mr Brooks and the Australian Trade*, MUP, Carlton, pp. 116-7.

¹³ F. Broeze, *ibid.*, p.117.

¹⁴ Broeze, *ibid.* p.117. Spark described both the Sydney and London groups as being formed “for the protection of Commerce between the Australian colonies and England.” *ibid.*, p. 73.

¹⁵ Alexander Riley Papers, 1814-1837, ML MSA108, pp.145-150 and p. 154.

¹⁶ Riley, *ibid.*

¹⁷ Spark, 10 and 18 May 1838, *op.cit.*, p. 93. The most vocal merchants behind this Petition appear to have been SA Donaldson, Mr. Aspinall, and AB Spark himself, supporting the shipmasters of “wool ships” bound for London.

desertion against one of his seamen before the NSW Supreme Court, in the absence of the Vice-Admiralty Court then in recess.¹⁸

At the forefront of those seeking to change the Act were merchants and pastoralists, S.A. Donaldson (the son of S.A. Donaldson in the London firm of Donaldson, Wilkinson & Co.), Richard Aspinall (of the Sydney and Liverpool merchant firms of Aspinall & Browne) and AB Spark. Spark described the Governor's reception of a Petition from the group as "sympathetic".¹⁹ However, legislative change was not the only weapon in the merchant and shipmasters' arsenal. During 1839, visiting British shipmasters and the NSW shipping interest campaigned to address the issues of crimping through the establishment of a Sailor's Home, based on Bethel principles, and the establishment of a Committee of the Temperance Society to raise funds for the Home. In February 1839, the Committee discussed establishing the home "for the double purpose of putting down the destructive workings of a gang of "crimps" and for the benefit of sailors when in port, as well as shipowners and captains".²⁰

The chief inspiration for this worthy move was John Nicolson, commander of the ship *George IV* from Calcutta, who had established a similar home in Calcutta, providing cheap food, ale, bed and lodgings, as well as fresh clothing and guaranteed employment at the India and China Wharf and Warehouses while in port for seamen.²¹ By July, £300 was subscribed for the Home, the "Union Inn," established on the corner of Essex and George Streets.²² The move had broad verbal support from local shipowners, shipmasters, merchants, some attorneys and even seamen.²³ Unfortunately philanthropy gave way to politics, and financial support for the Home and its ideals increasingly languished during 1840. This coincided with the NSW Legislative Council actively taking up the issues of desertion and crimping as part of a

¹⁸ Captain Roxburgh v Campbell, *Commercial Advertiser*, 27 August 1838. The Court was of course powerless to hear the matter, but expressed sympathy for the shipmasters dilemma, in not wanting to incur demurrage charges. Roxburgh had attended the meeting in May and was among the most active shipmasters campaigning for changes to the laws.

¹⁹ Spark, 18 May 1838.

²⁰ *Commercial Advertiser*, 2 February 1839.

²¹ *Ibid*, 9 February 1839.

²² *Ibid*, 24 July 1839.

²³ *Ibid*, 24 April, 5 June, 24 July 1839.

broader campaign for the control of the wages and conditions of the labour force.²⁴ On 10 October 1840, it passed two separate Acts. The first was an amendment to the Masters and Servants Act, providing for a modification of the punitive measures (including incarceration of servants who defaulted on employment contracts), and a means by which servants could seek remedy for wages claims.²⁵ The second was an Act for the further and better regulation and government of seamen within the colony of NSW and its dependencies, and for establishing a Water Police.²⁶

On this occasion, domestic labourers and mechanics had the advantage over seamen in their ability to present a united front in opposing what was originally intended to be a revival of the harsh penal clauses instituted under the local 1832 Act.²⁷ At Port Phillip, journeymen carpenters struck for higher wages, using money raised among themselves and their supporters to maintain “sticklers”.²⁸ This represented one of the earliest effective industrial strikes in the Australian colonies. A second Act of Council amended Sir James Graham’s Act of 1835 and was designed to address “systematic” crimping in Sydney.²⁹ As Sydney merchants volunteered to pay a tax of sixpence per ton for the establishment of the Water Police and a separate Court to enforce the Act, Gipps was finally only too happy to give his support to the measure, despite earlier reservations.³⁰ The Act provided for a wider definition of the charges of desertion,

²⁴ *Commercial Advertiser*, 30 September and 7 October 1840. Punitive regulations proposed in the Legislation against servants was much opposed by Governor Gipps and by the local press. It was adopted with some amendments in October 1840 as 4 Vic, No 23. The existence of penal provisions under both this and the previous Act of 1832 (9 Geo.IV, 9), which it replaced challenges the notion proposed by both Conrad Dixon and Michael Quinlan that seamen were the only workers dealt with in this manner. See Conrad Dixon, ‘Legislation and the Sailor’s Lot, 1660-1914’, in P. Adam (ed.), *Seamen in Society*. Papers presented at the meeting of the International Commission on Maritime History, Bucharest, 11-12 August 1980, part III, p. 98; Michael Quinlan, ‘Regulating Labour in a Colonial Pretext: Maritime Labour Legislation in the Australian Colonies, 1788-1850’. *Australian Historical Studies*, No. 111, 1998, pp.303-5.

²⁵ 4 Vic. No. 23, Gipps to Russell, 1 January 1841, *HRA*, Series 1, Vol. 21, p.152.

²⁶ 4 Vic. No 17. This Act was designed to replace Sir James Graham’s Act, 5 & 6 Wm. IV, C. 19, and to effectively deal with the problems of crimping, and the delays of the Vice-Admiralty’s Court, replacing the latter with a special water police force and Water Police Court, whose costs were to be defrayed by a duty on tonnage. *HRA*, Series 1, Vol. 21, pp.150-1.

²⁷ *Commercial Advertiser*, 30 September and 7 October 1840.

²⁸ *Ibid*, 7 October 1840, p. 3. They were demanding a rate of fourteen shillings a day, or double their average pay rate.

²⁹ *Ibid*.

³⁰ *Ibid*. These reservations were discussed in *The Australian*, 27 August 1840. His apparent position on the issue had by January 1844 undergone something of a “sea-change”, *HRA*, Series 1, Vol. 23, pp. 292-3.

disobedience and mutiny and for harsh penalties for seamen found guilty of these charges.

Within the first fifteen months of its enactment the new Water Police Court successfully prosecuted 4,000 cases, and within three years, 7,000 men were prosecuted.³¹ The Act was chiefly directed toward the crews of visiting British and foreign shipping, whose seamen were often tempted to desert owing to a differential between their own wage agreements and those offered locally. Many had no wage entitlements when they reached Sydney, after the subtraction of the two-months advance notes they received prior to their voyages and additional “slop” charges incurred on the voyage.³² They therefore had little to lose by breaking their existing engagements to sign on other voyages. They were further encouraged by the fact that many of their employers refused to acknowledge any debts incurred by the sailors while they were in port (whether legitimate or not).³³

Despite the Court’s successful record, the Act was not an entirely satisfactory method of dealing with the delays caused by desertion and the crimping phenomena. Rather, by undermining the authority of shipmasters, and penalising seamen with sentences of gaol and hard labour, ships were still being delayed and the crimps given further leverage.³⁴ Gipps believed the Act would also disadvantage colonial shipowners, who lured experienced seamen from their ships with the offer of higher wages.³⁵ The

³¹ NSW Legislative Council, *Report of the Select Committee on the Water Police Act Amendment Bill with Minutes of Evidence*, (Sydney, 1843), p. 17.

³² Statement of Captain Hart shipmaster of the *General Hewitt* to a local meeting of shipowners, merchants and shipmasters held at the Royal Hotel, Sydney in March 1846, *Shipping Gazette and Sydney General Trade List*, 7 March 1846. See also David W. Williams, ‘“Advance Notes” and the Recruitment of Maritime Labour in Britain in the Nineteenth Century’, Reprinted in Gordon Boyce & Richard Gorski, *Research in Maritime History* IMEHA, No 18, St Johns, Newfoundland, 2002, pp 253-272.

³³ Shipmasters and shipping agents routinely publicly cautioned the public against offering services on credit to seamen in the local press in newspapers such as the *Sydney Gazette* and *Commercial Advertiser*.

³⁴ A point that was made abundantly clear by Lord Stanley to George Gipps in his criticism of the new Act in a despatch of 10 September 1842, *HRA*, Series 1, Vol .22, pp. 260-2.

³⁵ The *Australian*, 27 August 1840. British seamen could, of course, be legally discharged at Sydney, providing they had signed Articles for one-way voyages. Such agreements were more likely in the case of immigrant or convict ships destined for the Far East, where shipowners were obliged to sign on a larger number of seamen than were required to man a ship in ballast, and additional cheap labour (in the form of Lascars) was available at the next port of loading.

Home Government disallowed the local Act, as being unnecessarily arbitrary and punitive in intent.³⁶ Coincidentally however, some local merchants and shipmasters (in particular Robert Towns and Benjamin Boyd) opposed the tonnage levy on shipping particularly during a period of financial distress.³⁷ By June 1841 the Water Police were being strongly criticised for detaining ships at the Heads, due to delays in issuing clearances.³⁸ Three vessels, including the French ship, *Justine*, bound for Bourbon (refused permission by Customs to dispose cargo from Chile under the Navigation Laws), were particularly inconvenienced by the delays.³⁹

The role of H.H. Browne, Water Police Magistrate, appointed the previous year, came under scrutiny by the press. Not only was he Magistrate, but as head of the Water Police he was also clearing officer, “about to become Custom House Officer, and eventually Harbour Master”.⁴⁰ With these multiple roles there was a real potential for corruption, as he not only received an official salary of £400 per annum, but also a fee of ten shillings for special departure licences and a share of all seizures, judged to be “incompatible” with his Office.⁴¹ By September 1843 the Legislative Council amended their legislation in line with the Home Government’s recommendations, while reducing tonnage levies from sixpence to threepence.⁴² Gipps believed that despite the reduction in the Water Police and the abolition of Browne’s position as its Superintendent, English and foreign seamen were in “excellent order” due to a reduction in wages of local coastal and whaling seamen, which eliminated any inducement to desert.⁴³

³⁶ *Shipping Gazette and Sydney General Trade List*, 29 August 1846, p. 247.

³⁷ Robert Towns speaking at a public meeting of shipowners, shipmaster and merchants at Sydney, *Shipping Gazette and Sydney General Trade List*, 7 March 1846, pp. 64-5. From an initial sixpence a ton the rate was reduced to threepence, but without the benefit of the Water Police.

³⁸ *Commercial Advertiser*, 23 June 1841.

³⁹ Gipps to Stanley, 31 January 1842, *HRA*, Series 1, Vol. 21, pp.667-669.

⁴⁰ *Commercial Advertiser*, 23 June 1841.

⁴¹ *Ibid.*

⁴² An Act to Amend an Act Entitled “An Act for the Further and Better Regulation and Government of Seamen within the Colony of NSW and Its Dependencies and for establishing a Water Police” and Further to Amend the Law relating to the Government of Seamen in the Merchant Service, was passed on 22 September 1843 (7 Vic. No. 21). See also Gipps to Stanley, 1 January 1844, *HRA*, Series 1, Vol. 23, p.292-3.

⁴³ Gipps to Stanley, 1 January 1844, *HRA*, Series 1, Vol. 23, pp. 292-3.

This was clearly not a view shared by some members of the shipping interest whose business survived the 1841-1844 depression.⁴⁴ The temporary peace on the waterfront also reflected a serious downturn in inbound shipping at Sydney, especially from Great Britain, amounting to almost 42% between 1842 and 1844.⁴⁵ There was little recovery in the volume of inbound shipping to NSW before 1849.⁴⁶ This phenomenon partly reflected a downturn in freight prices, the insolvency of many British and colonial shipowners and merchants, and an increasing uncertainty among British shipowners about the future of British shipping in a political climate favouring the repeal of the British Navigation Laws.⁴⁷ With the effective cessation of the operations of the Water Police Court, and the resumption of Sir James Graham's protective merchant seamen's legislation in 1843, shipmasters and Sydney merchants and shipping agents were once more encumbered by demurrage charges, court costs and potentially higher labour costs.⁴⁸ Over the next few years, Sydney attorneys, on behalf of sailors suing for wages, prosecuted a succession of court cases, many involving London whalers.⁴⁹

A succession of cases involving NSW whaling crews marked a change in the pattern of claims and charges that had previously mainly affected overseas shipping. Among the colonial whalers affected were the *Strathisla* and *Woodlark* owned by the newly insolvent Sydney shipowners, Joseph and Henry Moore; the *Caroline* and *Proteus*, owned by Alexander Fotheringham, the *Jane*, owned by insolvents, Hughes and Hoskings, and Benjamin Boyd's whalers *Margaret* and *Terror*.⁵⁰ However, during the series of public meetings held in Sydney by the "shipping interest," many of the long-

⁴⁴ Very few of the Sydney merchant houses avoided the insolvency courts in the period 1841-5, as of course was also true for landowners, shipowners, professional and trade groups.

⁴⁵ Appendix 1.

⁴⁶ Shipping arriving from Great Britain in 1849 was artificially boosted that year by a temporary resumption of assisted immigration. *HRA*, Series 1, Vol. 26, pp. 469ff.; SRNSW, 4/4786-4/4915, Reel 2135-2459.

⁴⁷ Testimony of Duncan Dunbar, 11 May 1847, to the Select Committee on the Navigation Laws, BPP, Fourth Report 1847, questions 4197-4211, and 4259-4563, *op.cit.*

⁴⁸ However, at least during 1843 when the operation of the Water Police Court were disbanded, the temptation to desert from English ships to re-engage on local shipping where higher wages were offered had diminished due to the effects of the financial crisis. *Ibid.* p. 293.

⁴⁹ These included the *Proteus*, *Jane*, *Terror*, *Margaret*, and merchant ships *Bussorah Merchant*, *Java* and *Kent*. (Captain Robert Towns address, 25 January 1848, *Shipping Gazette and Sydney General Trade List*, 19 February 1848). These attorneys worked on a *pro bono* basis.

⁵⁰ *Ibid.*

established local shipowners, such as Joseph and Henry Moore, appear to have been absent.⁵¹ Hughes and Hosking were most certainly crushed by their long-disputed bankruptcy proceedings, while Robert Duke died in 1845, following his own financial disgrace.⁵² The most active and vocal participants were men such as Robert Towns, who generally opposed state intervention in trade, and merchants and shipping agents, representing overseas interests and pastoralists. These included John Thacker, S.K. Salting, John Gilchrist and J.L. Montefiore, and visiting shipmasters from Britain and the United States, such as Captain Russell of the United States whaler, *Levant*.⁵³

* * *

That not all seamen, apprentices or officers with outstanding wage or lay claims chose the path of litigation is evident from the insolvency files of local shipowners.⁵⁴ Rather they sought financial remedy as creditors to the shipowners' estates, and their claims were normally given preferential treatment.⁵⁵ In most instances the wage claims (however legitimate) sought through the Vice Admiralty's Court were unsuccessful, but the seizure and delay of vessels considerably inconvenienced their owners. In one test case, *Deedo v. Strathisla* in April 1844, the NSW Supreme Court dismissed the relevance of the 1835 Merchant Seaman's Act, and reasserted the local Water Police Act of 1840, despite the fact that both Whitehall and the NSW Legislative Council had already overturned it.⁵⁶ Local magistrates and law enforcement officers demonstrated a continued underlying bias in their determinations in favour of the

⁵¹ Joseph and Henry Moore had finally succumbed to the demands of their impatient creditors in February 1844, when they applied for relief in the Insolvency Court. Insolvency Papers of Henry and Joseph Moore, 10 February 1844, SRNSW, CGS13654, No. 1177-1179;

⁵² Insolvency Papers of John Terry Hughes and John Hosking, 7 September 1843, SRNSW, 2/8748, CGS13654, Nos. 916-7; 25 September 1843, SRNSW 2/8752, No. 954; and Insolvency Papers of Robert Duke and John James Curtis, 29 April 1842, SRNSW 2/8683, CGS13654, No. 235.

⁵³ *Shipping Gazette and Sydney General Trade List*, 7 March 1846.

⁵⁴ A sampling of the insolvency files of shipping agents and local shipowners such as Duke & Co., J. & H. Moore, J.H. Grose, H. Sheldon, T. Gore, Hughes & Hosking, R. Dacre and others indicates a number of these among outstanding creditors (Schedule E).

⁵⁵ Apprentices appear to have received absolute priority for payment from assets held by the trustees of insolvent estates, which may reflect the nature of their contracts. Insolvency files of Joseph & Henry Moore, SRNSW *op.cit.*

⁵⁶ *Shipping Gazette and Sydney General Trade List*, 20 April 1844; also T.D. Castle & Bruce Kercher, (eds.), *Dowling's Select Cases 1828-1844: Decisions of the Supreme Court of NSW*, The Francis Forbes Society for Australian Legal History, Sydney 2005, pp. 583-587 (based on NSW Supreme Court Select Cases, SRNSW, 2/3465, Vol. 7, p. 41).

shipping interests, whatever legislation was in force throughout the period.⁵⁷ As Michael Quinlan has suggested, the legal fraternity were at one with the shipping interest in viewing seamen's complaints as "trumped up allegations designed to secure premature release from the contract".⁵⁸ This is hardly surprising in view of their class, social and family connections.⁵⁹ Frequently these associations began on voyages from England, such as that between James Dowling and Robert Towns.⁶⁰ Supreme Court Judge, John Edye Manning was the father of Sydney shipowner and merchant, Edye Manning, while Justices of the Peace were most frequently merchants and shipping agents like AB Spark.⁶¹

Local discontent among seamen reflected the general uncertainty that prevailed in the local whaling industry, as some owners (such as Lamb and Parbury) withdrew, while other owners, such as Duke, Hughes and Hosking, and Moore, mortgaged vessels and were placed in receivership.⁶² The new breed of investor entering the whaling industry were comparatively ruthless men like Boyd, Fotheringham and Towns, who were prepared to minimise costs in wages and maintenance of their vessels.⁶³ They also all had closer links with the British-Australia trade and British shipping and wool interests – Towns and Fotheringham with Robert Brooks, Boyd with the Royal

⁵⁷ For example, while seamen could be arrested, imprisoned and fined for drinking offences, shipmasters and the managers of whaling stations who were alleged to have committed serious offences such as murder, could be released on surety and effect their escape from justice. *Commercial Advertiser*, 2 January 1839, R. v. Edward Palmer, *Commercial Advertiser*, 20 January 1838, R. v. King, *Shipping Gazette*, 20 May 1848; and again in the case of the shipmaster of the *Kestrel*, *Shipping Gazette*, 27 December 1845.

⁵⁸ Quinlan, May 1992, *op.cit.*, p. 23

⁵⁹ Note has already been made, for example of the marriages of shipmaster George Blaxland to Maria Dowling, daughter of the Supreme Court judge, and Thomas Walker to Ann Elizabeth Blaxland.

⁶⁰ James Sheen Dowling, *Reminiscences of a Colonial Judge, 1819-1902*: edited by A. Dowling, Federation Press with the Assistance of the Law Society of NSW, Sydney 1996, pp. 60 ff. Dowling, presiding over the Vice-Admiralty Court, nevertheless, had proved somewhat of an annoyance.

⁶¹ Insolvency Papers of Edye Manning, 4 May 1844, SRNSW, CGS13654, No. 1256; see also Louise T. Daley, 'Manning, Edye (1807-1889)', *Australian Dictionary of Biography*, Vol. 2, p.202; and R.J.M. Newton, 'John Edye Manning', *ibid*, pp. 202-203.

⁶² Seamen sometimes became uneasy when they became aware of a change in ownership during communication with other vessels while at sea, as had occurred on the Duke's whaler, *Tamar*, when it was mortgaged to P.W. Flower, before being purchased by J. Moore. (*Tamar's Log Book*).

⁶³ D. Shineberg (1967), *op.cit.* pp. 88,110, 116-7. M. Diamond, *The Seahorse and the Wanderer: Ben Boyd in Australia*. Melbourne 1988; M.Diamond, 'Benjamin Boyd', in R.T. Appleyard and C.B. Schedvin (1988), *op.cit.*, pp. 52-69; Towns v. Underwriters, NSW Supreme Court, *Shipping Gazette and Sydney General Trade List*, 12 February 1849, pp.94-104.

Charter Bank.⁶⁴ The stage was being set for a merging of the interests of the larger local ship owners, merchants and shipping agents, and pastoralists linked with the English woollen manufacturers.

* * *

In the four-year period after 1841, Sydney shipping agents and merchants experienced a sharp downturn in the number of vessels arriving from Great Britain and foreign states, both reaching their lowest levels since their peaks in 1841 and 1843 respectively in 1845.⁶⁵ This downturn in shipping was accompanied, for the first time in NSW history, by a favourable balance of trade with Britain that continued at least until 1850.⁶⁶ However, as suggested by the figures in Appendix 1, there was a real increase in the number and tonnage of vessels arriving from New Zealand and other colonies, underlining a shift away from Sydney as the first colonial point of call for vessels from Great Britain. This coincided with an increase in shipping to Hobart, Port Phillip and Adelaide. Thus NSW merchants were handling less merchandise from Great Britain (a reflection on their own pecuniary circumstances as much as it is on the development of other settlements), but exporting greater volumes and values to Great Britain and other settlements.⁶⁷

In 1846, the situation apparently reached a crisis point, and the future of the English shipping and merchant trade to the colonies seemed in jeopardy. While the reasons for the downturn were far more complex, the shipping interest turned their attention to the British Navigation laws. During 1846 local shipowners, merchants and commanders began irregularly meeting to campaign against the Merchant Seamen's Act, and supporting the re-institution of the Water Police in Sydney. A preliminary meeting of local shipowners, merchants and captains was held at the Custom House Hotel,

⁶⁴ F. Broeze, *Mr. Brooks and the Australian Trade: Imperial Business in the Nineteenth Century*. Melbourne University Press, Carlton, Vic. 1993, pp.169-70; 198-9.

⁶⁵ See Appendices 1 & 2.

⁶⁶ See Appendix 3.

⁶⁷ The insolvent files of leading merchants such as Thomas Gore, Robert Duke and others, in fact reveals attempts by the Trustees to manage their estates through the lifting of exports, sale of assets and stock and transfer of property often to overseas creditors, while (naturally) the business entity no longer operated as a viable purchaser.

followed by a similar meeting two days later, with a third meeting shortly after at the Royal Hotel. After an extraordinary meeting in March 1846 of representatives of the shipping interests in Sydney, the NSW Legislative Council petitioned the British House of Commons for the repeal and radical revision of existing navigation laws.⁶⁸

At a further meeting chaired by William Walker in August 1846, S.A. Donaldson described the workings of the NSW Vice-Admiralty Court, under the Sir James Graham Act as “intolerable”.⁶⁹ He claimed he had no desire to prejudice the interests of seamen, describing them as “a simple, trusting, and ignorant class of men”.⁷⁰ One of the major concerns expressed by the Sydney merchants was the potential loss of the maritime service industry – the provisioning, refitting and repair of the British and American whaling fleets in the Pacific, as a result of seamen’s litigation.⁷¹ S.K. Salting (of the Sydney merchant firm, P.W. Flower & Salting) stated that American whaling captains threatened not to return to Sydney unless action was taken to amend legislation to protect their interests.⁷² This was confirmed by their most vocal shipmaster, Captain Russell of the American whaling ship *Levant*.⁷³

There is in fact very little evidence that American whalers were ever a significant direct source of (legal) income for NSW. In the period from 1835 (at the height of whaling) to 1848, the number of ships arriving either directly from the United States, via the fisheries or other foreign states (Appendix 1) does not suggest Sydney constituted an important port of call. Figures available for the total value of foreign whale oil disposed of for “repairs, refitting and refreshment,” in NSW from 1843-1848, amounted to between £4,269-£15,864 per annum.⁷⁴ There was also no direct

⁶⁸ *Shipping Gazette and Sydney General Trade List*, 7 March 1846.

⁶⁹ *Shipping Gazette and Sydney General Trade List*, 29 August 1846, p. 247.

⁷⁰ *Ibid.*

⁷¹ The estimated value of refitting services for the seven hundred ships in the American whaling fleet was estimated to be potentially worth between £300,000-£420,000 in 1848, according to one Sydney merchant, J.N. Smith, at a public meeting held in January 1848, *Shipping Gazette and Sydney General Trade List*, 19 February 1848.

⁷² *Shipping Gazette and Sydney General Trade List*, 29 August 1846, p. 247.

⁷³ *Ibid.* Interestingly the American shipmaster had also been vocal in his support for Newcastle merchants’ petition to be declared a free warehousing port. Their petition was addressed to Gipps on 31 May 1844, *HRA*, Series 1, Vol. 23, pp. 627-632.

⁷⁴ *Shipping Gazette and Sydney General Trade List*, 30 June 1849.

relationship between the number of foreign whaling ships arriving and the value of cargo disposed. Whaling ship numbers (inclusive of colonial, British and foreign) fluctuated from 28 in 1844, to 80 in 1846, and down to 64 in 1848, while the value of all marine exports continued to fall from a high point in 1834.⁷⁵ This downward trend had little to do with either the effect of the Navigation Acts or the Merchant Marine Act. Rather, it reflected depletion in the numbers of whales in the southern fishery, a shift from unsound business investment practice, and an increasing competition from seed oils and tallow.⁷⁶ In this context, Russell's threat appears more a political gesture than a genuine threat to the colonial shipping industry.

One of the most vocal among those agitating against the Merchant Seamen's legislation between 1846-1848 was Towns. This is hardly surprising given that he not only represented his own expanding shipping investment, but also the interests of London merchant Robert Brooks and Enderby's Southern Whale Fishery, recently transferred to New Zealand.⁷⁷ Despite the fact that Captain Towns was "a self-made man," the quality of his oratory and the enthusiasm with which his speech was greeted during a large meeting of the shipping interest in Sydney he chaired in January 1848, was predictive of his future political career.⁷⁸ Towns very clearly represented the *laissez-faire* spirit of the times, promoting legislation facilitating the hiring of cheap labour, while campaigning for the repeal of legislation that restricted his ability to secure cheaper foreign shipping.⁷⁹

While there is no direct evidence of these meetings being stage-managed, they had the effect of very conveniently coinciding with the aims of British Member of Parliament,

⁷⁵ *Ibid*, and 13 July 1844.

⁷⁶ Gordon Jackson, *The British Whaling Trade*. Research in Maritime History, No. 29, International Maritime Economic History Association, St Johns, Newfoundland, 2005, pp. 122-7.

⁷⁷ F. Broeze, *op.cit.*, pp. 231, 249.

⁷⁸ Dowling, *op. cit.*, p. 60; Towns, 25 January 1848, *Shipping Gazette and Sydney General Trade List* of 19 February 1848.

⁷⁹ Dorothy Shineberg, *They Came for Sandalwood: A Study of the Sandalwood trade in the South-West Pacific, 1830-1865*, MUP, Carlton, 1967, pp. 85-9; Frank Broeze, 'Australia, Asia and the Pacific: The Maritime World of Robert Towns 1843-1873', *Australian Historical Studies*, Vol. 24, No. 95, October 1990.

Joseph Hume's, own political agenda for the repeal of the navigation acts.⁸⁰ The NSW connection is most apparent in published correspondence between Benjamin Boyd's brother, Mark, and Joseph Hume in 1846-7.⁸¹ Boyd does not appear to have played any vocal role during the 1846 meetings in Sydney. Nevertheless, he was evidently one of the most powerful voices among the colonial opponents of the British navigation laws behind the scenes.⁸² On the 11 January 1846 Boyd wrote to his brother Mark, in London, expressing delight that Sir Robert Peel had carried "the Corn Question" through Parliament, which he believed was "all in favour of Australian wool". He believed this would inevitably be followed by the introduction of a free trade system, during which "the Navigation Laws will go by the board; and a revision of our vexatious and partial Admiralty Laws be also produced".⁸³

Boyd's real irritation lay not with the Navigation Laws *per se* so much as with the laws relating to merchant seamen, that had given the crews of merchant ships some protection against exploitation and arbitrary dismissal.⁸⁴ He compared the laws with those applying on foreign ships, suggesting obliquely that if the British government was not prepared to tackle the question of wages, then shipowners would purchase their shipping from Sweden and elsewhere "and sail under foreign flags".⁸⁵ It was a position that delighted Joseph Hume, who claimed to have been consistently taking that view in the House of Commons since 1844. He stated that as a result of his campaign he had finally secured the support of both Houses to undertake an inquiry into the navigation laws with the object of "a total abolition of these restrictive laws; and then of the complex and oppressive Admiralty Laws". He suggested that public meetings be arranged to collect information and support for this object in the colony.

⁸⁰ See in particular, Sarah Palmer (1990), *op.cit.*, pp.77-8; 88-90 and 98.

⁸¹ The letters between Benjamin, Mark and Hume were published in the *Shipping Gazette and Sydney General Trade List* on 3 July 1847, p.533, almost four months after the Boyd's London representative, Samuel Browning, had given evidence to the newly-formed Select Committee on the Navigation Laws.

⁸² His London agent, Samuel Browning was among the first to give evidence at the Select Committee hearing in March 1847, *ibid.*

⁸³ His letter was subsequently reproduced and published together with supporting letters from Mark Boyd and British Member of parliament, Joseph Hume in the *Shipping Gazette and Sydney General Trade List* on 3 July 1847, p. 533, (eighteen months later).

⁸⁴ The argument for cheap labour was to be pressed at length by his London agent, Samuel Browning, during the British Select Inquiry into the Navigation Laws in March 1847.

⁸⁵ Boyd to Mark Boyd, dated 11 January 1846, *Shipping Gazette and Sydney General Trade List*, 3 July 1847, p. 533.

The timing of his reply to Mark Boyd's letter, 23 January 1847, suggests that in fact the Sydney merchants and shipmasters had taken their own initiative.⁸⁶

When the British House of Commons inquiry into the Navigation Laws began in March 1847, under Joseph Hume's initiative, one of those first called to give evidence before the Select Committee was Samuel Browning, Benjamin Boyd's London agent.⁸⁷ His forthright, and sometimes misleading testimony placed him among the radical right of the *laissez-faire* lobby group. Unknown amongst London shipowners and merchants alike, he strongly criticised British protective policies that he claimed supported untenably high shipbuilding costs and freight charges.⁸⁸ At the heart of his arguments were the free-market principles of Adam Smith, "buy as cheap and to sell as dear as possible", regardless of national (or safety) considerations.⁸⁹ In terms of the Australian colonies, Browning advocated the repeal of the Navigation Laws and consequent freedom of trade with foreign countries, including the freedom to hire cheap foreign labour.⁹⁰

The first evidence that the interests of the colonials was being directly linked to Hume's own campaign was in July 1847, when the majority of the elective members of the NSW Legislative Council, and nearly all the merchants and shipowners, signed a Petition to the House of Commons for the repeal of the Navigation Laws and a careful revision of the Acts falling within the jurisdiction of the Vice-Admiralty Courts in NSW.⁹¹ They expressed pleasure at the progress being made towards establishing "the principles of commercial freedom by which the general impolicy

⁸⁶ Hume to Mark Boyd, dated 23 January 1847, *ibid.*

⁸⁷ Testimony of Samuel Browning before the Select Committee on the Navigation Laws, 16-23 March 1847, BPP, (1847, 1st. Report), questions 830-1509, pp.95-133, The apparently little-known Browning, who claimed himself to be a London merchant and agent for Boyd & Co, had in fact commanded Boyd's steamship, the *Seahorse*, on its voyage out from London to Sydney, via Hobart in 1841.

⁸⁸ Evidence of J.P. Grieve, London shipwright (for Green, Wigram and Green), 13 July 1847, BPP (1847), *ibid.*, question 8016, p. 140-1, and testimony of G.F. Young, London shipowner, 10 June 1847, BPP (1847), *ibid.*, question 6089, p.148, Select Committee on the Navigation Laws, *ibid.* A part of Browning's evidence relating to wool and copper freights was also disputed by shipowner Robert Brooks, 23 March 1848, BPP (1848), *ibid.* questions 1218-1227, p.113.

⁸⁹ Cited in Sarah Palmer, *Politics, Shipping and the repeal of the Navigation Laws*. Manchester University Press, Manchester, 1990 (1990), p. 71.

⁹⁰ Testimony of Samuel Browning, 16 March 1847, BPP (1847), *op. cit.* questions 899-922, pp. 85-87.

⁹¹ *Shipping Gazette and Sydney General Trade List*, 17 July 1847, p. 548.

[sic] of protective duties and restrictive regulations of trade, and the value of buying in the cheapest markets and selling in the dearest, are recognized by the Imperial Government". They asked that they be admitted "on the fullest and fairest terms of commercial freedom, to compete in the markets of the mother country, and of the whole world", which was not available to them under existing laws. They were harsh in their criticism of the British Navigation Laws, claiming they "severely obstructed" them in every way. These laws prevented them from importing any goods, unless in British ships, unless they were the produce of the country to which the ships belong, while they were still further injured by the restrictions imposed upon the exporting of their produce in foreign ships.⁹²

This was certainly true, however it had not prevented Sydney merchants, William Dawes, Gore & Co., from exporting 700 bales of wool on an American ship *Corvo* to Boston in February 1836, or Thomas Gore & Co. exporting a further shipment to Boston on the *Chalcedony* in April 1836.⁹³ A local newspaper reporter commented at the time, "several mercantile persons here actually dread an American intercourse".⁹⁴ However it added: "Every new vent to her staple commodity is a fresh inlet for wealth". Nor had it prevented merchandise from being imported by S. Wilkinson, Jnr., on the American ship *Navigator* in March 1844, while a succession of droughts had also required the colonial government to endorse the importation of grain on Chilean ships.⁹⁵ Similarly, Sydney business partners, T.D. Edwards and M.D. Hunter began importing China goods, especially tea, from Canton regularly on behalf of Magniac & Co. (later known as Jardine, Matthieson & Co.) from 1829, four years before the cessation of the East India Company's Chinese trade monopoly.⁹⁶ Richard Jones had long conducted similar business with his Canton agents, Thomas Dent &

⁹² *Ibid.*

⁹³ *Commercial Journal and Advertiser*, 4 February & 2 April 1836, p.3.

⁹⁴ *Ibid.*, 4 February 1836.

⁹⁵ *Shipping Gazette and Sydney General Trade List*, 12 March 1844; Russell to Gipps, 12 June 1841, *HRA*, Series 1, Vol 21, pp.388 ff; Gipps to Stanley, 31 January 1842, *ibid.*, pp.667 ff.

⁹⁶ T.D. Edwards arrived from Canton in April 1829 on the ship *Cumberland* with a large cargo of China goods, and shortly thereafter set up in partnership with M.D. Hunter, before acquiring (ex-American) T. Pitman's wharf at Dawes Point. *Sydney Gazette*, 16 April 1829. They rapidly obtained a monopoly of the trade, in competition with Richard Jones, agent for Dent & Co. The Cantonese firm of Magniac & Co, was re-established by surviving partners as Jardine, Matthieson & Co., in January 1833, after the expiration of Hollingworth Magniac's interest, *Sydney Gazette*, 10 January 1833.

Co. As these various contraventions of the British Navigation Laws went unchallenged by the local Customs Office, one must assume their activities had the sanction of the British Government.

There was, however, a real difference between individual merchants and shipowners receiving special dispensation or licences, and having a system of legislation that permitted all free access to the marketplace. The Legislative Council's July 1847 petition complained that the cost of British shipping compelled the owners to demand an exorbitant scale of freight, which was utterly incompatible with the value of the cargoes, especially grain and timber.⁹⁷ It complained about the cost of shipbuilding in England, comparing it unfavourably with European and American shipbuilding costs. This complaint bore no relevance at all to the NSW shipping interest. Rather it was a mere repetition of the political statements made by pro-*laissez-faire* northern textile manufacturers, such as the Smith Brothers who were active in the Manchester and Liverpool Chambers of Commerce.⁹⁸ Highlighting this connection is the fact that the London wool broker, John Gore, when asked by the Parliamentary Select Committee to give his opinion about the effects of the British Navigation Laws in 1848, professed profound indifference about the matter.⁹⁹

Many of the issues expressed in the Legislative Council's petition were irrelevant to local conditions. This was especially true of the local timber and shipbuilding industries. The comments on labour shortages did not necessarily reflect a genuine scarcity of labour so much as a desire to drive down the price of colonial labour, while profiteering from land sales and passage money. The Navigation Laws, "professing to have as its object the encouragement of English trade and English shipping", proved a handy tool in this campaign. Browning (on behalf of Boyd) and Frederick Parbury (on behalf of his Sydney firm, Lamb & Parbury), both sought the repeal of the Navigation Laws specifically to free them to employ cheap labour, and

⁹⁷ *Shipping Gazette and Sydney General Trade List*, 17 July 1847, p. 548. In fact, NSW had long been a grain importer, not an exporter. With respect to timber exports, the Petition mentioned Baltic and North American timbers, not Australian cedar or hardwoods.

⁹⁸ Sarah Palmer, *op.cit.*, pp. 28-9, 45-6, 92-3, 130-1. *Sydney Free Press*, 14 August 1841.

⁹⁹ Testimony of John Gore, 23 March, 1848, BPP (1848, 1st Report), Questions 1325-1359, pp. 119-120.

to remove the protection British shipbuilders enjoyed from allegedly cheaper overseas competition.¹⁰⁰ Similarly, Towns and Boyd, remained strong advocates for the importation of “cheap labour” from India, China and the Pacific Islands.¹⁰¹

The British Navigation Laws were universally blamed for the success of the American whaling fleet in the Pacific, “a trade which from her unrivalled capabilities for the supply of provisions, and her natural position on the whaling grounds, ought to belong almost exclusively to Australia”.¹⁰² The issues were far more complex even for NSW whaling interests. While whale numbers were declining by 1840, American ports were still operating almost 700 whaling vessels in the Pacific in 1846. The information available suggests that deficient skills and abuse of alcohol were prevalent on both English and Australian whalers, while American vessels sailed under temperance principles.¹⁰³ Experienced local shipowners, such as Duke and Moore, however, appeared to have generally avoided these dilemmas through sound recruitment and management practices, which generally earned them the loyalty of their officers and crew, and consequently better results.¹⁰⁴

As in previous local campaigns, the Navigation Laws were held to be responsible for the failure of the British and colonial fleets to compete with American fleets. Unrecognised were the real issues – Britain’s chronic timber shortage and NSW ship investors’ financial limitations in building up and operating a whaling fleet equivalent to that constructed for American investors. The Petition lamented the fact that, allegedly as a result of the Navigation Laws, NSW shipping interests were not able to capitalise on the potential market in provisions for an American crew estimated at

¹⁰⁰ English shipowners such as Duncan Dunbar and shipbuilder GF Young were among many witnesses who believed that the repeal of the Navigation Laws would throw many British shipwrights and other artisans out of employment, and shipbuilding taken offshore to the Baltic and Americas where labour was cheaper, *BPP*, (1847), Dunbar, 11 May 1847, question 4211, p.2; Young, 3 June 1847, question 5768, p. 119.

¹⁰¹ M. Diamond, *The Seahorse and the Wanderer: Ben Boyd in Australia*. Melbourne 1988; F. Broeze, ‘Australia, Asia and the Pacific: the Maritime World of Robert Towns 1843-1873,’ *Australian Historical Studies* No 95 1990 pp.221-238.

¹⁰² NSW Legislative Council Petition, *op.cit.*.

¹⁰³ Frederick Parbury, 23 March 1848, *BPP* (1848, 1st Report), *op.cit.*, questions 1360-1459, pp.122-126.

¹⁰⁴ For example, Log Book of *Tamar*, Insolvency Papers of Joseph Moore, SRNSW, *op.cit.*.

200,000 men and refitting and repair services for their ships, paid for through the sale of at least a portion of American oil, valued at about £1,750,000.¹⁰⁵ Ultimately the question remains as to whether NSW had the logistic capacity to have serviced the whole American whaling fleet at this time. While it had reasonable stands of timber, and access to coal, iron ore and copper ore, it had a small manufacturing base and limited ship repair facilities. It relied on the importation of grains and other foodstuffs from Van Diemen's Land, New Zealand, and occasionally further afield, to meet existing local demands. It depended on British manufactured goods (particularly processed iron and copper, rope, canvas and clothing). It is therefore unlikely that the American whaling fleet offered the opportunities for local profits asserted by the 1847 proponents for the repeal of the Navigation Laws.

The 1847 Petition was scarcely about the fate of the British or colonial whaling fleet. Its main concern was the interests of the English woollen manufacturers, whom they estimated paid an annual tax estimated at £3,000,000 sterling to the Royal Exchequer. The Petition re-affirmed the sentiments of British Prime Minister Grenville (cousin of William Pitt), when he wrote to Lord Auckland (William Eden) of the British Board of Trade in 1806 (on the occasion of the seizure of William Wilson and Robert Campbell's ship, *Lady Barlow* in the port of London), that he felt indisposed to give in to the "doctrine that commerce be sacrificed to navigation, the principal to the accessory".¹⁰⁶ This phrase was used during the Inquiry into the Navigation Laws during 1847, and its sentiments repeated in the Petition, "NAVIGATION is the effect, and *not* the cause, of COMMERCE." It claimed that "irreparable injury is done both to the colonial producer of the raw material and to the British manufacturer", those very groups that represented the British shipowners' chief clients, by the British Navigation Laws.¹⁰⁷ In effect, rather than protecting and encouraging the British shipping industry, the legislation, they claimed, undermined it. It was not a view shared by British shipowners.

¹⁰⁵ NSW L.C. Petition, 1847, *op.cit.*.

¹⁰⁶ Grenville to Auckland, 19 May 1806, Dropmore Papers, Vol. 8, p. 144, quoted in M.J.E Steven, 'Exports other than Wool', in G.J. Abbott & N.B. Nairn, *Economic Development of Australia, 1788-1821*, MUP, Carlton, 1969, p. 294.

¹⁰⁷ The 1847 Petition of the NSW Legislative Council, *Shipping Gazette and Sydney General Trade List*, 17 July 1847, p. 548.

The whole tenor of the 1847 petition strongly suggests that its creator had little sympathy with the British shipping industry either at home or in NSW, and only a superficial understanding of the local business environment. Rather its glib phrasing was that of a politician, snatching the terminology and thrust of those members of the imperial government who had engineered the inquiry into the British Navigation Laws, and who presided over its lengthy Committee proceedings.¹⁰⁸ In almost all respects the Petition might have been prepared on behalf of the northern textile industry in Britain, rather than specifically for local shipping interests. It touched but briefly on the operation the Vice-Admiralty Court in administering the Merchant Seamen's Act that had been so much the focus of previous meetings. In fact it represented the type of local support Joseph Hume had recommended in his letter to Mark Boyd in January 1847. Having achieved that objective, the local shipping association could now refocus on achieving their main objective. With S.A. Donaldson actively campaigning for his election to the NSW Legislative Council, William Walker chaired the next public meeting in 25 January 1848.¹⁰⁹ J.N. Smith spoke at length about the detrimental operation of the Vice-Admiralty Court on visiting ships, claiming that "many masters having recoiled from the idea of returning to Sydney", and referring to correspondence from a British merchant advising him that he would rather be robbed, than be involved in another suit.¹¹⁰ He blamed the Merchant Seaman's Act for discouraging American shipping visiting Sydney, estimating that each ships would, on a moderate average, expend £500-£600 for refittal "and here was all, or a great portion of this money, that would go into the pockets of citizens of Sydney, thrust out by the cupidity of a class of professional men, whom he would not designate".¹¹¹

Following extended debate in both Houses of the British Parliament during 1848-9, the Navigation Laws were finally repealed. If Britain believed that their abandonment

¹⁰⁸ After the extension of franchise through the Reform Acts of 1833 onward, the northern textile manufacturers – and by extension, the NSW pastoral industry - gained an increasing voice in Parliament. M. Greenberg, *op.cit.*, pp.180-182; Sarah Palmer, *op.cit.*.

¹⁰⁹ *Shipping Gazette and Sydney General Trade List*, 19 February 1848.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.* The "professional group" referred to were the attorneys representing seamen in the Vice-Admiralty's Court.

of shipping protection would set the stage for the United States and European nations to reciprocate by easing their protective legislation, they were wrong.¹¹² Over the next ten years an increasing proportion of foreign shipping entered Sydney Harbour, particularly shipping from Norway, Hamburg and the United States, but not in sufficient numbers to challenge Britain's hegemony.¹¹³ The NSW shipping interest had to wait until 1851 before a new Merchant Marine Act replaced the despised Sir James Graham's Act. In 1850 the Board of Trade assumed responsibility for the "general superintendence of Matters relating to the British Mercantile marine" (13 & 14 Vic. C. 93, s.6). The new Act partially addressed the issue of crimping, and placed greater formal authority in the position of shipmasters. However, it also represented an increase in government intervention in the selection and recruitment processes of the commercial shipping industry, by creating compulsory examination certification of shipmasters and officers.¹¹⁴ This will be discussed in further detail in Chapter 9.

Towns was not pleased with the Mercantile Marine Act, describing its regulations as "such a cumbersome load of stuff that it will require a man to be two or three years in a lawyers office before he can keep a log book according to its provisions".¹¹⁵ He was just as unhappy with the British Government's decision to give the Board of Trade a supervisory role over the implementation of the Act through a new Marine Board. Those members of the NSW shipping interest who perhaps had given their support to the repeal of the Navigation Laws on the understanding that the policy of *laissez-faire* would extend to the Merchant Marine Act, may well have felt cheated by this new law, which reaffirmed state intervention. In affect, the disparate treatment of the Navigation Laws and the Merchant Marine Act represented a confirmation that the local campaign was part of a British political agenda favouring the northern textile interests. Ultimately, it marked the separation of pastoral and maritime interests in the colony.

¹¹² S. Palmer, *op.cit.*, pp. 168-9.

¹¹³ Reports of Vessels Arrived, SRNSW, 4/5237-4/5251, Reels 1277-1285.

¹¹⁴ Sarah Palmer, 'The Making of a Nineteenth Century Profession: Shipmasters and the British Shipping Industry', in *Journal of the Canadian Historical Association*, 1990, pp. 97-118.

¹¹⁵ Cited in Michael Quinlan, 'Balancing Trade and Labour Control: Imperial/Colonial Tensions in Relation to the Regulation of Seamen in the Australian Colonies 1788-1865', *International Journal of Maritime History*, Vol. 9, No.1, June 1997, p. 43.

SECTION TWO:
Opportunities and Risk

CHAPTER 4: OPPORTUNITIES IN THE NSW SHIPPING INDUSTRY

This Chapter examines the range of maritime business opportunities available to investors in NSW during the period 1820-1850. It suggests that NSW maritime shipping activity was much more speculative in character than that of Great Britain. The local business environment demanded sensitivity to new opportunities, changes in the marketplace, and competitive challenges. The ultimate success of business operations depended on the ability of investors to constantly monitor their environment, identifying new opportunities and adapting to change. Successful business enterprise required imagination and daring, and was not for the faint-hearted. Ship ownership gave local investors access to opportunist business activity, ranging from trade in local timber, grains, salt and even sand deposits, to trepang, coconuts, sandalwood and whaling. It also enabled them to both create and respond to new settlement opportunities, whether at Twofold Bay, Portland, Port Phillip, Swan River, Port Essington, or indeed New Zealand, transporting passengers, stock, equipment and supplies.

Shipmasters were particularly well placed to gather valuable business intelligence and to take advantage of changing market prices. Michael Roe observed that shipmaster, Charles Bishop “noted opportunities for trade at every port,” giving detailed accounts of people and their customs, local politics, as well as building networks.¹ The ill-tempered shipmaster, Peter Dillon, displayed sensitivity in his dealings with Polynesians, learning their customs, while building strong trading networks.² Shipmaster James Paddon (financed by Heerjeebhoy Rustomjee of Canton and later by Sydney merchants Thacker & Co.) established a sandalwood station, whaling and ship repair depot at Anatum in the New Hebrides.³ Timely information provided by shipmasters was critical to men such as Sydney merchants, Edwards & Hunter, whose

¹ Michael Roe, ‘Charles Bishop, Pioneer of Pacific Commerce,’ *Tasmanian Historical Research Association Papers & Proceedings*, Vol. 10, July 1962, p.7-9.

² J.W. Davidson, *Peter Dillon of Vanikoro: Chevalier of the South Seas*. Melbourne, O.U.P., 1975.

³ D. Shineberg, *They Came for Sandalwood. A Study of the Sandalwood Trade in the South-West Pacific*, MUP, Carlton, 1967, pp.98-118.

central commercial activities from 1829 involved trade with Canton and Batavia.⁴ It was equally important in the highly competitive whaling trades, where knowledge of whale movements, weather patterns and navigation were critical to success.

Control of information flow was also important for local merchants, who often went to extreme lengths to ensure their product maintained a commanding position in the market.⁵ Shineberg noted the secrecy in which the sandalwood trade was shrouded by shipmasters to protect their sources of supply from competitors.⁶ Others used the rumour of shortages to drive up prices.⁷ Distance and unexplored territory provided singular opportunities for shipmasters to control and distort information to their own benefit. Such was the competition for the New Zealand spar trade, for instance, that shipmaster and Assistant British Resident in New Zealand, Thomas McDonnell, went to the length of publishing a chart of the New Zealand coast in 1834, which proved to be a “cruel fraud.”⁸

For enterprising men whose business was connected with the sea, the remote continent and islands of Australasia and the South Seas offered much promise. The reports of the voyages and discoveries of Captain Cook and of botanist Joseph Banks captured the imagination of many in the late eighteenth century.⁹ Banks had powerful connections both in government and the business world.¹⁰ James Matra, who accompanied Cook and Bank’s voyage of discovery to Botany Bay, somewhat over-

⁴ *Sydney Gazette*, 10 & 15 January 1833, and *Commercial Times*, 16 December 1834.

⁵ This included such illegal practices as refusing by shipmasters to carry mail, and the withholding of mail from competitors. Letter from T. Skinner, Hong Kong to Sydney merchant, R. Peek, 1 November 1839, *Sydney Free Press*, 14 August 1841; Egan v. Hunter & Edwards, “Suppression of Mail”, *Sydney Free Press*, 12 August 1841.

⁶ Shineberg, *op.cit.*, pp. 27-32.

⁷ A rumour that the tea trade with Canton was about to be stopped, created panic buying, resulting in the price of a chest of tea in Sydney rising to £6, *Commercial Advertiser*, 4 May 1839.

⁸ Cliff Hawkins, ‘To New Zealand for Kauri’, *The Mariner’s Mirror*, Vol. 52, 1966, pp. 320-1.

⁹ Alan Atkinson, ‘Whigs and Tories and Botany Bay’, *Journal of the Royal Australian Historical Society*, Vol. 61, Part 5, March 1976, pp. 289-310.

¹⁰ Margaret Steven, *Trade, Tactics and Territory. Britain in the South Pacific, 1783-1823*. MUP, Carlton, 1983, pp. 20-26.

optimistically suggested that the proposed settlement of Botany Bay might in twenty or thirty years “cause a revolution in the whole system of European commerce”.¹¹

Botany Bay was envisaged as a naval station, and its settlers free emigrants, trading with India, China and ultimately with Japan. In the absence of a safe northwest passage from Britain to China, the East Indies, and southern ocean fisheries, the development of ports in Australasia provided a satisfactory solution to the problems of distance.¹² Admiralty and some elements within Whitehall were cautiously interested in the potential of New Zealand and Norfolk Island to address the issue of a serious naval timber shortage presented by the secession of the North American states in 1783, and the potential loss of their Baltic timber and flax supply, should there be a renewal of hostilities with France and Europe. An equally serious consideration was the potential for interruption of supplies of gold bullion from Mexico and South America through China and India, and the increasing need for (whale and seal) oil supplies for industry.¹³ Nevertheless, the British Government’s commitment to the settlement and development of Australasia was seriously challenged by three important factors – the long-term nature of such a project; their need to prosecute wars in Europe, India and the Americas; and opposition from East India Company interests within government, who viewed the projected colony as a potential threat to its monopoly.¹⁴ Penal settlement was arguably a compromise solution, providing a local presence and rationale for a military and naval establishment, and a cheap source of labour.¹⁵

¹¹ J. Matra, 23 August 1783, in Alan Frost (ed.), *The Precarious Life of James Mario Matra, Voyager with Cook, American Loyalist, Servant of Empire*. MUP, Carlton, 1995, pp. 111-2.

¹² *Ibid.*; Geoffrey Blainey, *The Tyranny of Distance: How Distance Shaped Australia’s History*, Sun Books, Melbourne 1966.

¹³ Robert J. King, ‘“A Regular and reciprocal System of Commerce”, Botany Bay, Nootka Sound and the Isles of Japan’. *The Great Circle*, Vol 19, No 1, 1997, pp. 6-8; Michael Greenberg, *British Trade and the Opening of China 1800-1842*. CUP, Cambridge, 1951, pp. 1-3.

¹⁴ Alexander Dalrymple to the Court of Directors of the East India Company, 13 July 1785, *Papers of Alexander Dalrymple (1737-1808)*, MS43, pp.4ff., NLA; Alexander Dalrymple, Memorial dated 1 September 1786, published as *A Serious Admonition to the Public on the Intended Thief Colony at Botany Bay*, London 1786, pp. 22-5, cited in Robert J. King, *op. cit.*, p. 3.

¹⁵ K.M. Dallas, in *Trading Posts or Penal Colonies: The Commercial Significance of Cook’s New Holland Route to the Pacific*, C.L. Richmond & Sons, Devonport, 1969; Ged Martin (ed.), *The Founding of Australia. The Argument about Australia’s Beginnings*, Hale & Iremonger, Sydney 1978, M. Steven, *Trade, Tactics and Territory. Britain in the South Pacific, 1783-1823*. MUP, Carlton, 1983.

Until the mid-1820s relatively few shipowners, merchants and shipbuilders were prepared to commit significant capital to the development of the region. A few British or British-India merchants sent resident agents, supercargoes or shipmasters in command of chartered vessels to set up advance networks (often in liaison with emancipists), or to speculate in the fledgling settlements.¹⁶ For shipmasters, this provided opportunities for lucrative employment, obtaining local knowledge and contacts, and personal access to markets on which they might capitalise and make the transition to merchant and landowner.¹⁷ This was particularly true for ex-Royal Naval or East India Company officers and whaling captains. For seamen and mariners, it provided new opportunities for employment in a dwindling labour market, following the cessation of hostilities with France.¹⁸

Loyal shipmasters were a key component in commercial-intelligence gathering, keeping their employers informed about potential resources, market demand and prices at the ports they visited. Correspondents of local merchants also kept them apprised of overseas commodity prices and trends. Local newspapers irregularly listed such prices as they became available. Ultimately, however, none were completely dependable if competitors' shipping arrived in port first, flooding the market with similar freight. It took a combination of skill, good management of crew, and local knowledge on the part of a shipmaster, as well as a fast, seaworthy craft, to ensure that freight reached its intended market before competitors' sales forced the price of merchandise down. This competitive undercurrent was nowhere more apparent than in the China trade, in which the local market was controlled by Sydney merchants, Edwards & Hunter for Jardine Matthieson & Co., and Richard Jones for Thomas

¹⁶ Most notably, shipmaster James Birnie, and merchants Robert Campbell and Richard Jones. See Margaret Steven, 'Birnie, James (1762?-1844)', *Australian Dictionary of Biography*, Vol. 1, MUP, Melbourne, 1966, pp.104-5; M. Shineberg, 'Jones, Richard', *Australian Dictionary of Biography*, *op.cit.*, Vol. II, pp. 24-25; Margaret Steven, *Merchant Campbell 1769-1846*, MUP, Melbourne 1965, and C.E.T. Newman, *The Spirit of the Wharf House*, Sydney, 1961.

¹⁷ Among the most significant of these early shipmasters were Eber Bunker and James Birnie. See Richard Hodgkinson, 'Eber Bunker – Whale Ship Captain of Parramatta', *Royal Australian Historical Society Newsletter*, 1976, Vol 158, pp. 4-5, and Richard Hodgkinson, *Eber Bunker*, Roebuck, Canberra 1975.

¹⁸ Peter Kemp, *The British Sailor: A Social History of the Lower Deck*. J.M. Dent & Sons, London 1970, pp. 188-9.

Dent. When Sydney merchant, Daniel Egan, attempted to enter the trade in 1841, both agency houses temporarily closed ranks with the collusion of a shipmaster.¹⁹

As early as 1791, Captain Eber Bunker of the English whaler *William and Ann* was exploiting whaling resources in New Zealand waters, and by 1802 the industry there was well established. The Bay of Islands proved a safe harbour for occasional ships seeking shelter during storms and refreshment after long voyages. In a letter to the Church Missionary Society on 22 September 1814, the Reverend Samuel Marsden wrote, "New Zealand must be always considered as the great emporium of the South Seas, its navigable rivers, its fine timber for ship building, its rosin, native flax, etc".²⁰ Alert to the trading opportunities, Marsden wrote "I need not point out to the owners of South Sea whalers how much it is in general against their interests for any of their ships to put into the harbour of Port Jackson for refreshments. The captains and crew are almost certain to be ruined." By March 1817 he had devised a plan to import cattle to New Zealand to supply fresh meat to the whalers.²¹

In the 1820s New Zealand was providing a lucrative trading alternative to Port Jackson as more English and foreign whalers chose to refresh and refit there. Sydney merchant, Thomas Raine, after establishing a trading post at Hokianga to procure flax and timber, also established a shipyard there, which when not employed repairing shipping, constructed new shipping. In 1830 Darling noting the rapidly increasing trade between Sydney and New Zealand, observed that that up to thirty vessels called at the Bay of Islands to refit and obtain supplies.²² Sydney merchants establishing stores and shipyards there, capitalised on the availability of timber, flax and cheap labour, the absence of customs or port duties, to provide services for British and foreign whaling ships.

¹⁹ Captain Wright, commanding the *Giraffe*, had not only skilfully managed to outpace Egan's *Jean*, under Captain Grimes' command from Macao to Sydney, but had also colluded with Edwards & Hunter's ship to suppress mail addressed by Grimes to Egan. This had resulted in significant financial loss to Egan. (Egan v. Hunter, NSW Water Police Court. *Sydney Free Press* 10 & 12 August 1841, pp. 2 & 3).

²⁰ J.R. Elder (ed.), *The Letters and Journals of Samuel Marsden, 1765-1838.*, Coulls Somerville, Wilkie & A.H. Reed, Dunedin, 1932, p. 133.

²¹ Marsden, *ibid.* 30 March 1817, p. 330.

²² Darling to Murray, 12 August 1830, *HRA*, Vol. 15, pp. 702-3.

For the seven and a half month period ending 14 August 1830 alone, New Zealand exports to the value of £18,426 were legally imported into Port Jackson on twenty-eight vessels.²³ The most valuable commodities were flax and sealskins. Less valuable, but nonetheless important exports in terms of freight earnings, were salt provisions, pine boards and spars. Appendix 4 gives an indication of the value of New Zealand trade to Sydney maritime community during the period 1834-1849, with exports to New Zealand gaining greater prominence from 1839 when she achieved colonial status. As can be seen from Appendices 5 and 6, shipping engaged in the New Zealand trade formed a major feature of the NSW shipping industry throughout the period. The increasing volume of imports and exports suggests that the shipping trade was able to adapt remarkably well to the change in New Zealand's legal status, responding to new market prospects offered by the increase in immigration from Great Britain.

* * *

A.G.L. Jones differentiated between the South Seas whale ship owner and other British shipowners, describing the former as an “entrepreneur” in the sense of conducting an uncertain, speculative trade that presented both a maritime and commercial risk.²⁴ Most English shipowners were purely freight carriers, with limited potential to manipulate freight charges. Ralph Davis suggested that English merchants rarely used their own ships for carriage of their goods.²⁵ Their goods potentially occupied income-earning cargo space. In such cases decision-making was sometimes based on Adam Smith's principle of “buying cheap and selling dear,” in which the merchant interest sought the cheapest freight rate, while the shipowner sought the highest rate. In this context, the English whale ship owner “was an oddity, carrying his own cargo in his own ship”.²⁶ Duncan Dunbar, in his testimony to the 1847 Select Committee on the Navigation Laws, suggested that it was not the role of shipowners

²³ Custom House, Sydney, dated 14 August 1830, for period 1 January 1830-14 August 1830, Enclosure 1 & 2, Darling to Murray, 22 September 1830, *HRA*, Vol. 15, p. 736-7.

²⁴ A.G.L. Jones, *Ships Employed in the South Sea Trade 1775-1861*, Vol. II, Part Three: *Aspects of the South Seas Trade*, Roebuck, Canberra 1986, p. 544.

²⁵ Ralph Davis, *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries*. Macmillan & Co, London, 1962, pp. 90-1.

²⁶ Jones, *op cit*.

to search for freight for their ships, but rather the duty of merchants to find ships to carry their cargo.²⁷

The evidence from manifests of shipping in both the coastal, inter-colonial and overseas trades entering and departing from Sydney does not support this statement.²⁸ Certainly for local shippers, more important aspects of the equation were the availability of space, market demand and timing. Many NSW shipowners were also merchants. In the absence of a large population and manufacturing base, they frequently were engaged in the high-risk lifecycle of business development, identifying income-generating activities, procurement, and locating new resources and markets. Dunbar's description of the respective roles of merchant and shipowner suggested some complacency on his part. Unwilling to allow his emigrant ships to linger in Australian ports to collect a wool cargo at anything less than 1½d. per pound, he preferred to send them in search of an uncertain cargo at an Indian port.²⁹ When the 1847 Parliamentary Inquiry placed Dunbar's statement under closer scrutiny, it became clear that he was merely engaging in self-defeating tactics to drive up the price of export freight in Sydney, for even at 1d. per pound weight freight, wool freight amounted to an average of over £10 per ton weight, or £5 per spatial measurement.³⁰ This was extremely competitive compared with freight rates in Singapore, China and the main India ports.³¹

* * *

For astute businessmen, Australia's location in the "fishing grounds," provided a unique opportunity to reduce some of the uncertainties associated with the English whaling industry, by locating whaling ships at Sydney and Hobart. Whalers from

²⁷ Dunbar, 11 May 1847, BPP (1847), Second Report, Vol. 1, question 4361, p. 11.

²⁸ Ship manifests (including general descriptions of contents and quantity, their consignors or consignees) were regularly published in the shipping import and export columns of newspapers such as the *Sydney Gazette, Commercial Advertiser and Journal*, and the *Shipping Gazette and Sydney General Trade List*. This discrepancy may have reflected fewer shipping options.

²⁹ Dunbar, 11 May 1847, BPP (1847), *op cit.*, question 4264, p.7.

³⁰ One ton of wool occupied one hundred cubic feet, or two tons of shipping space. This equated to approximately nine or ten wool bales (averaging 240-260 pounds) amounting to £9-£10 (at 1d. per lb), which even if halved (following Dunbar's reasoning) still equated to £4/10-£5 per spatial ton. Dunbar, *ibid*, questions 4332-9, pp.10-11). Nevertheless, it was not until 1855 that freight prices to London resumed their pre-1845 levels, *Shipping Gazette and Sydney General Trade List*, 30 April 1855.

³¹ Freight rates from these ports varied between £2/12/7-£4/3/7. Dunbar, *ibid*, question 4197, p. 7.

NSW had an advantage over those sailing from English ports in terms of time and distance. Local shipowners could virtually keep them constantly employed due to their proximity to the whaling grounds. By 1827 the fisheries (including whale products and seal skins), provided NSW most valuable export products, with sperm oil being the most valued export.³² The Sydney firm of Jones and Walker pioneered this strategic change, purchasing five British vessels specifically for the local whaling industry, while employing their other ships as regular freight carriers between Sydney and London.

Colonial shipowners were far more likely than their English counterparts to engage in entrepreneurial behaviour. The unique opportunities and circumstances of the colony enabled a number of individuals with previous convict status to become merchants and shipowners. Exploitation of seal colonies on the southern coasts of the Australian mainland, and islands of Bass Strait provided a major stimulus to the local shipping industry.³³ Sandalwood resources in the South Pacific were similarly exploited for sale on the Chinese market after 1803, providing an additional incentive to colonial shipping interests.³⁴ What typified colonial shipping activities such as the sealing, sandalwood and bay whaling trades was the employment of hunting and gathering “gangs” at New Zealand and the South Sea Islands, employed by the shipmaster or owner to collect cargoes for shipment.³⁵ These were often crewmembers, and the vessels departing from Sydney for engagement in these activities were frequently in

³² Darling to Huskisson, 10 April 1828, *HRA*, Series 1, Vol. 15, p. 135. He estimated that the strategy gave local investors a profit margin of 20-25% over those resident in England.

³³ D.R. Hainsworth, ‘Exploiting the Pacific Frontier: The NSW Sealing Industry 1800-1821’, *Journal of Pacific History*. Vol II, 1967; D.R. Hainsworth, ‘Iron Men in Wooden Ships: The Sydney Sealers 1800-1820’, *Labour History* No. 13, November 1967; Barbara Little, ‘Sealing and Whaling in Australia before 1850’, *Australian Economic History Review*, Vol. IX, No 2, September 1969, pp. 109-127.

³⁴ D.R. Hainsworth, ‘In Search of a Staple: The Sydney Sandalwood Trade 1804-1809’, *Business Archives & History*, Vol. 5, No.1, February 1965.

³⁵ In 1827 Sydney merchant, George Bunn (an ex-shipmaster), employed a whaling gang at Preservation Inlet, New Zealand, on behalf of Bagster, Buchanan & Co, while John Jones and George, Edward and Joseph Weller similarly established whaling gangs at Otago and elsewhere. Robert McNab, *Muri hikui: A History of the South Island of New Zealand and the Islands Adjacent and Lying to the South, from 1642 to 1835*. Whitcombe & Tombs, Wellington, 1909; Denis Gojak, ‘An Historical and Archaeological Overview of the Whaling Industry in New South Wales and Norfolk Island’, in Susan Lawrence & Mark Staniforth (eds.), *The Archaeology of Whaling in South Australia and New Zealand*, Australian Society for Historical Archaeology and the Australian Institute for Maritime Archaeology Special Publication, No. 10, Gundaroo, 1998, 11-19.

excess of those legally required to man them.³⁶ Robert Campbell Snr., John Grono, Simeon Lord, Thomas Street, and others placed gangs of seal hunters in isolated areas such as Macquarie, Kangaroo and the Chatham Islands, where they often remained many months collecting and curing skins without outside contact.³⁷ Often sealing, whaling and sandalwood gangs enlisted the assistance of indigenous people in exchange for tools, or other barter items.³⁸ With the exception of the King George Sound and Hudson's Bay Companies, this type of shipping activity was qualitatively very different from that in which most British shipowners had previously invested.

Such practices, in fact, were not limited to these trades but were also employed on the mainland. Street, Campbell and Lord all employed cedar gangs at Port Stephens in the early 1820s, while Street also maintained a gang of lime-burners to gather and prepare lime to be sent to the government public works programmes at Parramatta and Liverpool.³⁹ The exploitation of NSW coastal timber reserves provided a major source of industry and profit for shipmasters, shipbuilders, timber cutters and merchants during the period, and was a determinant in both the location of shipyards and distribution of settlement.⁴⁰ For merchant-landowners it provided a means of affecting a speedy financial return on their investment, while land was being cleared either for pastoral use or subdivision.⁴¹

³⁶ Reports of Vessels Arriving at Port Jackson, July 1826-December 1831, NSW Colonial Secretary's Office, SRNSW, 4/5198-4/5202,; AO Reel 1263.

³⁷ McNab (1909), *op cit*, p. 352; Little (1969), *op cit*.; Hainsworth (1965), (1967, 1 & 2), *op cit*; Shineberg (1967), *op cit*.

³⁸ J.S. Cumpton, *Kangaroo Island, 1800-1836*, Australian Association of Maritime History, No. 1, Roebuck, Aranda, ACT, no date; McNab, Little, Hainsworth, & Shineberg, *ibid*.

³⁹ Malcolm R. Sainty & Keith A Johnson (eds.), *Census of New South Wales, November 1828*, Library of Australian History, Sydney 1985.

⁴⁰ Much of the evidence for this is to be found in news reports in the *Sydney Gazette*, *Commercial Advertiser*, and the *Shipping Gazette and Sydney General Trade List*. The *Maitland Mercury*, for example, reported the completion of the construction of the 270-ton brig, *Fanny Fisher*, on the Manning River, on the account of Captain Harold and Henry Fisher. On her maiden voyage from the Manning to Sydney she carried a large cargo consisting of 31,000 feet of cedar, 14,000 feet of hardwood, and 400 bushels of maize. This was a typical pattern of colonial shipbuilding and activity. Additional information has been gleaned from the insolvency records of shipwrights such as Newton, Ferrier & Co., James Marshall and Taylor Winship, Insolvency Papers CGS13654, SRNSW, 2/8789, No. 1491, SRNSW, 2/8783, No. 1293, and SRNSW, 2/8692, No. 334.

⁴¹ J.H. Watson, 'Kempsey: Early Settlement of the Macleay River', *The Royal Australian Historical Society*, 28 June 1921, pp. 202-204.

Similarly, Thomas Raine employed a gang of timber cutters and sawyers at New Zealand, later recruiting shipbuilders and other artisans from the New Zealand Company to develop value-adding activities in the form of shipbuilding and repairs.⁴² Sydney shipmasters, W.S. Deloitte and Ranulph Dacre also followed this practice, the latter (acting as agent for London shipowner Robert Brooks, who had secured timber contracts from Admiralty) in partnership with Gordon Brown.⁴³ They were following a practice already established by Marsden in 1814, who defrayed the costs of purchasing the brig, *Active*, by loading spars cut by Maoris on the Kawakawa River at the Bay of Islands for the Sydney market.⁴⁴

* * *

British Admiralty very early recognised the suitability of some NSW hardwood, such as blue and flooded gum, and red cedar for naval shipbuilding.⁴⁵ From 1803, the British Admiralty contracted East India Company's convict transports to freight NSW timbers to its naval stations in India and the Cape of Good Hope.⁴⁶ R.G. Albion, discussing the timber problem of the Royal Navy from 1652-1862, noted that by 1778, suitable timber for shipbuilding in the United Kingdom was "notoriously low", and that Admiralty experienced serious concern about the shortage, and its implications for sea power and British security.⁴⁷ As late as 1847-8, during the debate

⁴² R.H. Goddard, 'Captain Thomas Raine of the Surry, 1795-1860', in *Royal Australian Historical Society Journal and Proceedings*, Vol. 26, Part 4, 1940, pp.277-317; H.E. Maude, 'Raine, Thomas,' *Australian History of Biography*, (1990), *op. cit.*, Vol. 2, pp. 359-360; Cliff Hawkins, 'To New Zealand for Kauri', *The Mariner's Mirror*, Vol. 52, 1966, p. 320.

⁴³ Reports of Vessels Arriving at Port Jackson, July 1826-December 1831, NSW Colonial Secretary's Office, SRNSW, 4/5198-4/5202, AO Reel 1263; Insolvency Papers of Ranulph Dacre, 9 June 1846, SRNSW, 2/8801, CGS13654, No. 1533; Cliff Hawkins (1966), *ibid*, p. 321-2; M. Shineberg, 'Dacre, Ranulph' *ADB*, *ibid*, Vol. I, pp.275; F. Broeze, *Mr. Brooks and the Australian Trade: Imperial Business in the Nineteenth Century*, MUP, Carlton, Vic. 1993, pp. 31 & 39.

⁴⁴ Hawkins (1966), *op cit*, pp.316-7.

⁴⁵ Lord Pelham, Secretary of War and Colonies to Governor King, 29 August 1802, with attachments, PRO, Colonial Office 202/6 ff54, cited in Daniel Paine, *The Journal of Daniel Paine 1794-1797* (together with Documents Illustrating the beginning of Government Boat-Building and Timber Gathering in New South Wales) (edited by R.J.B. Knight and the Manuscripts Department of the National Maritime Museum, Greenwich, England, and Professor Alan Frost, La Trobe University, Victoria. National Maritime Museum and Library of Australian History, Sydney 1983, Appendix II, pp. 82-4.

⁴⁶ *Ibid*. It was estimated they would utilise two or three ships per annum for this purpose. The first of these appears to have been the *Glatton*, sailing in 1803. On 7 January 1808, the plan was underwritten by further instructions from the Navy Board, Colonial Secretary's Correspondence, SRNSW, 4/1795, Fiche 3279, pp. 28-36.

⁴⁷ R.G. Albion, *Forests and Sea Power. The Timber Problem of the Royal Navy, 1652-1862*, Archon Books, Hamden Connecticut, 1965, pp. ix-x. The British Government had in fact been so concerned

on the British navigation laws, London shipowners were still lamenting the loss of American timber supplies following American Independence, and the difficulties experienced in procuring cheap supplies of shipbuilding timber.⁴⁸

Red cedar was particularly sought after by both British and colonial commercial shipbuilders after 1816, and together with coal and lime, provided the basis for a coastal shipping trade.⁴⁹ Classified as a hardwood because of its close grain, its wood contains a resin making it resistant to decay and most insect attack, and providing great durability. Its normally straight grains, the great girth of its trunk, buoyancy, and durability were recognised by early settlers on the banks of the Hawkesbury, who sent it to London for assessment of its value for shipbuilding.⁵⁰ The timber was quickly reserved for the benefit of the government and Admiralty, however with a timber felling contract rate of 9s. per acre, numerous sawpits soon began operating in the Richmond and Windsor areas.⁵¹

By 1834, when the London Lloyd's Registry Society was formed, both red cedar and NSW hardwoods were recognised as timbers suitable for use in all parts of the frame of ships classed as A1 for a period of ten years.⁵² NSW timber (as well as New Zealand kauri for masts and spars), including shingles and treenails, were major bulk export items to Great Britain and to India. Despite its importance for the British shipbuilding and building industry generally, timber remained a low-value export and attracted low freight charges (see Appendices 3-6). Thus, while never gaining recognition as an export "staple," based on McCarty's model, it nonetheless provided

about the shortage that they commissioned an inquiry into British timber resources in 1782, headed by ex-EIC military engineer, John Call (one of the chief promoters of the Botany Bay settlement). See Alan Frost, *Convicts and Empire. A Naval Question 1776-1811*, O.U.P., Melbourne, 1980, pp. 23 & 203; and R.J. King, *op.cit.*, p. 3.

⁴⁸ Testimony of Samuel Browning, 16 March 1847, BPP (1847, 1st Report), questions 830 ff., pp. 81 ff.

⁴⁹ Colonial Secretary's Correspondence, 31 October 1816, SRNSW, 4/1736, pp. 158-9; 6 November 1821, SRNSW 4/3504A, p. 27, 79.

⁵⁰ John Vader, *Red Gold: The Tree that Built a Nation*. New Holland Publishers, Sydney, 2002.

⁵¹ *Ibid.* On 12 April 1802, the Government issued an Order prohibiting the felling of cedar at the Hawkesbury without permission, all such timber having been reserved for the Government, SRNSW, SZ756, *Colonial Secretary's Correspondence*, Reel 6039, p. 637.

⁵² Table submitted in evidence by Charles Graham, Secretary to Lloyd's Register of British and Foreign Shipping, on 27 April 1847 to the Select Committee on Navigation Laws, BPP (1847, 3rd Report) Question 3358, pp.77-8.

a significant opportunity for the NSW shipping industry, including shipowners, shipmasters and shipwrights.⁵³

At least from the early 1820s the local shipbuilding industry accompanied timber extraction, with farming and rural settlement occurring after land clearance by sawyer gangs. Lord, Street and Campbell, for instance, employed sawyer gangs to extract red cedar, rosewood and stringy bark on Crown land near Port Stephens in the early 1820s for shipment to the Sydney market, for use in local building industry, or for exportation to Britain or the Indian Naval Dockyard.⁵⁴ Street concurrently employed shipwrights on his property in the Port Stephen's area.⁵⁵ Shipwrights arriving during the 1830s progressively chose sites close to major cedar and hardwood stands. The demand for timber frequently enabled local shipbuilders to become shipowners and entrepreneurs.

The advantages of such locations become readily apparent when it is observed that immediately after the launching of Derbyshire and Ross's new schooner *Bonny Dee*, at John Robertson's Station on the Bellinger River in March 1846, she was sent to Trial Bay, where she loaded with 40,000 feet of cedar, the valuable cargo already sold on the Sydney market by her owner, Robertson.⁵⁶ Derbyshire and Ross launched another schooner for Robertson, the *Rebecca*, in the same year. Similarly, the 150-ton brigantine, the *Louisa and Miriam*, built by Newton and Malcolm at the Manning River for Moses Joseph of Sydney, carried 20,000 feet of cedar, 15 bales of wool and 89 bushels of grain on her maiden voyage to Sydney in March 1848.⁵⁷ These coastal vessels performed a valuable service for their owners and the colony by delivering valuable timber to Sydney either for local consumption or sale in Britain or India, while the land was cleared for other primary production, such as grain production and

⁵³ J.W. McCarty, 'The Staple Approach in Australian Economic History', *Business Archives & History*, Vol. 4, No.1, February. 1964.

⁵⁴ Colonial Secretary's Correspondence, 4 June 1823, SRNSW, 4/1809, Reel 6067, pp. 64 & 74; 8 June 1823, SRNSW 4/3505, Reel 6009, p. 402; 9 June 1823, SRNSW 4/1809, Reel 6067, pp. 64-71a & 72-4; 5 January 1825, SRNSW 4/1812, Reel 6058, pp. 8-10.

⁵⁵ 30 June 1824, *ibid.*, 4/1779, Reel 6061, p.173e.

⁵⁶ *Shipping Gazette & Sydney General Trade List*, dated 4 April 1846; the ninety-ton schooner *Bonny Dee* was ideal for her destined trade. With a length of 57 feet, she could be loaded with a deck cargo of timber, and she had a load line of six foot 10 inches, which made her suitable for crossing river bars.

⁵⁷ *Shipping Gazette and Sydney General Trade List*, 4 March 1848.

grazing, whose products the coastal vessels in turn shipped to Sydney for consumption or export.

* * *

The highly speculative nature of the NSW shipping industry can perhaps nowhere be better illustrated than Sydney merchant James King's proposal to export white sand for the manufacture of flint glass in 1832. London glass manufacturers, Pallett & Co. willingly purchased the sand for 30s. per ton. London shipowners, Buckles, Bagster and Buckles supported King's scheme, suggesting that instead of ships using "worthless" shingle as ballast, they could use sand instead, enabling the same ships to carry larger flax and wool cargoes using sand as deadweight.⁵⁸ Not all speculations were so successful. In 1841, Ranulph Dacre collected two tons of greenstone at Nelson and Milford Sound, with the intention of selling it on the Chinese market. Unfortunately the plan was totally thwarted when his ship was stranded at Manila as a result of the impending war with China.⁵⁹

Sydney merchants and shipowners were always on the alert for new opportunities for trade either on their own behalf, or as agency representatives, for overseas shipowners and merchants. The trepang trade was certainly not a new opportunity for the colony, as trade in the product occurred prior to 1820, despite Bligh's imposition of import duties. In September 1827, Thomas Hyndes and his friend and business partner, Street, brought in six casks of trepang from the Cumberland Isles, which they subsequently offered up for auction.⁶⁰ In July 1846 one newspaper reporter suggested that some enterprising party might take advantage of the Chinese demand for trepang, then fetching high prices in Canton, for a relatively low capital investment.⁶¹ It noted that Dutch East India ships were earning 7s. per picul for trepang at Macassar, while by sailing to Canton or elsewhere in China they could earn approximately 10-11s. per picul. Thus on an average tonnage of 600 tons cargo, these ships were grossing almost £3,528, or over £5,040 in China. If the report was correct, it was a prize for which the colony's maritime community was in a good position to benefit.

⁵⁸ Buckles, Bagster & Buckles to Goderich, *HRA*, Series 1, Vol 16, pp. 762-766.

⁵⁹ Shineberg, 'Dacre, Ranulph', *ADB*, Vol. 1, p.275.

⁶⁰ *Sydney Gazette*, 7 September 1827.

⁶¹ *Shipping Gazette & Sydney General Trade List*, 11 July 1846

Salt was a much safer commodity for speculation, as it provided one of the very few means of preserving foodstuffs. Ship crews depended on salted provisions, and by 1832 New South Wales was exporting over 1,250,000 pounds of salt provisions, valued at £19,952, half of which were for the fisheries and foreign states.⁶² While “Liverpool salt” was sometimes imported, imported salt was more a social accessory than a necessity. Missionary, William Hall, records the arrival of casks of salt for the New Zealand mission at Cowa Cowa in November 1816 on board the NSW-owned *King George*.⁶³ In 1820 shipowner Street was contracted to provide salt pork for the NSW government.⁶⁴ He imported salt from Kangaroo Island and New Zealand.⁶⁵ During 1833 and 1834, the level of salt provisions exported from NSW remained fairly steady at 11,587 and 10,020 hundredweights respectively.⁶⁶ Much of these exports constituted one of those “invisible” export industries, mainly sent to New Zealand for the provisioning of whaling ships.

Local shipping exploited the natural resources of the South Pacific – collecting spars and flax from New Zealand; bay-whaling along the southern coastline at Twofold Bay and at numerous New Zealand bay-whaling stations; sealing in the Chatham Islands; collecting sandalwood, trepang, pearls and pork from the islands of the South Pacific, sperm whaling, and even collecting “curiosities” or artifacts, not least human heads.⁶⁷ Food shortages, sometimes occasioned by severe flooding and droughts, gave legitimacy for breaching British navigation laws (in the form of government tenders) enabling merchants and shipowners to send shipping to South America for grain

⁶² *Sydney Gazette*, 19 January 1833.

⁶³ William Hall, 2 and 9 November 1816, in Mal & Rosemary McLennon (eds), *Son of Carlisle- Maori Missionary: the Diary of CMS Missionary William Hall*. Galson, New Zealand, 2001, p.46.

⁶⁴ Treasury Expenditure, 24 November 1820 for transaction of 11 October 1820, Colonial Secretary’s Correspondence, SRNSW, 4/1748, No. 38, Reel 6051, pp. 136-7.

⁶⁵ Quarterly Naval Reports, 5 May 1823, *ibid.* X698, reports the arrival of the *Newcastle* from Kangaroo Island with one hundred tons of salt; *ibid.*, 4/5198, Reports of Vessels Arriving at Port Jackson, on 2 September 1827, Reel 1263, notes the arrival of his schooner *Industry* from New Zealand with five tons of salt.

⁶⁶ *Sydney Gazette*, Imports and Exports for 1833 and 1834 March 1835.

⁶⁷ Colonial Secretary’s Office, Report of Vessels Arrived, July 1826-December 1849, SRNSW, 4/5198-4/5236, Reels 1263-1276.

shipments.⁶⁸ Local shipping was also engaged on forays to Timor, Batavia, Calcutta, Canton, Valparaiso, and Mauritius.⁶⁹ By 1830 a regular trade had been established with Mauritius for the supply of sugar, and with Macao for tea and China goods, while by the late 1840s a few local ships were being sent as far a field as the African coast for guano, while significant number of local vessels participated in the 1849 gold rush to California.⁷⁰

The development of local fleets was an important element in the development of Sydney as a principal port, together with subsidiary ports in NSW. Coastal and inter-colonial shipping collected local forest, mining, and agricultural products – such as cedar, hardwoods and mimosa bark (for tanning), coal, and later lead, copper and gold, grains, wool, tallow, stock and skins. They distributed manufactured goods, stock and mail; and ferried passengers. Coastal settlement of the mainland was defined by access to shipping, and exploitation of timber resources by gangs of sawyers who cleared the native vegetation, making it habitable for agricultural settlement.

* * *

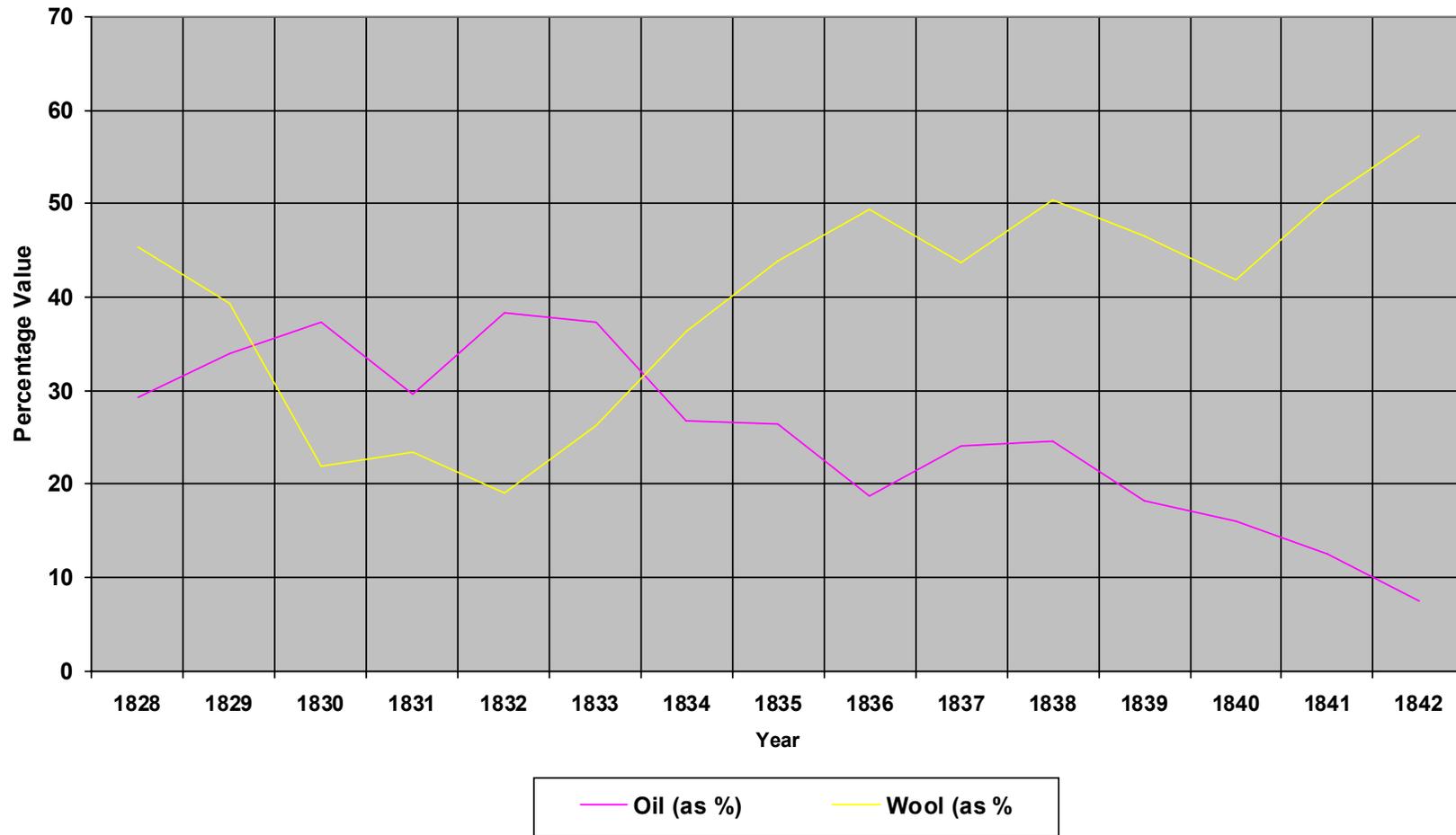
McCarty's macroeconomic model ignored other NSW export staples, including whale oil and tallow, flax, sandalwood, horses and, not least, mimosa bark and hoofs and horns for Great Britain's tanning and fertiliser industries, instead concentrating on wool exports. Within the parameters of staple theory, this may be justified. As can be seen from Appendices 4 and 6, NSW only achieved a favourable trade balance with its main trading partner, Great Britain in 1844, by which time wool constituted its most valuable export commodity (see Diagram 1, p102a). In the same year, it also achieved a favourable trade balance with the other colonies (mainly Van Diemen's Land) and with the South Sea Islands. However, it failed to achieve this effect with

⁶⁸ Darling to Huskisson, 20 June 1828, *HRA*, Series 1, Vol. 15, p.231. Brisbane to Bathurst, 4 March 1825, *HRA*, Series 1, Vol 12, pp.130-135; *Sydney Gazette*, 1 March 1826, and 4 March 1826. Gipps sought tenders for the supply of grain by local merchants and importers from India, Valparaiso and other South American ports, Gipps to Glenelg, 8 April 1839, *HRA*, Series 1, Vol. 20, pp. 107ff. The tender resulted in a rush of shipping leaving Sydney for overseas destinations in the hope of returning early and beating a potential glut. See *Commercial Advertiser*, 24 July 1839.

⁶⁹ See Report of Vessels Arrived (from July 1826-1831), SRNSW, 4/5198, Reel 1263.

⁷⁰ Charles Bateson has recorded the departure of over one hundred vessels leaving Sydney for California in 1849-1850, see Appendix 1, pp.156ff, in C. Bateson, *Gold Fleet to California: Forty Niners from Australia & New Zealand*, Ure Smith, Sydney 1963.

Diagram 1: Growth of Export Industry, 1828-1842 and the Percentage Value of Oil and Wool



the United States or other foreign states, a failure reflecting the limitations of the British Navigation Laws. The total import and export values to Great Britain in fact swung in favour of NSW for the first time in 1844, not solely due to its wool exports (which by then constituted about 55% of total exports to Britain), but rather due to the sudden drop in the value of imports from that country. This trend reflected the individual fortunes of Sydney merchants and landowners and their agency houses in Britain, caught in the financial crisis of the early 1840s.⁷¹

From a commercial point of view, opportunities for shipping activities were a far more complex matter than suggested by staple theory. Both coastal and overseas shipping manifests indicate the transportation of a multiple assortment of freight, including raw and manufactured goods being shifted from one port to another. Goods were being funnelled through Sydney from overseas ports in Great Britain, North and South America, Europe, Asia, Africa and Pacific Islands, suggesting Sydney's increasing role as an entrepot. While some of the imported freight consisted of goods on order to individuals or companies, much of it was on consignment, being speculative goods sent out to Sydney agents.⁷² Prior to the establishment of Sydney, Hobart and Launceston as free warehousing ports in 1835, such speculative goods were a potential nightmare to their recipients, who were forced to pay tax (in the form of import duties) on goods for which there might be no demand.

During the 1820s coastal freight charges fluctuated wildly according to demand. While there was relatively little available shipping before 1825, market demand was also very small. This was particularly true for commodities such as coal, lime and timber, with the colonial government being by far the greatest consumer. Thus, emerging shipowner, Street, offered to supply the government with coal from

⁷¹ This becomes apparent from an analysis of some of the insolvency files of major Sydney merchant houses, including Robert Duke, Thomas Gore & Co., AB Spark, Robert Dunlop, Adam Wilson & Co., Hughes & Hosking, and Ranulph Dacre. See Insolvency Papers, CGS13654 Series, 29 April 1842, No. 235; 2/8694, SRNSW, 2/8683, No. 342; 22 August 1843, 2/8744, No. 877; 25 April 1843 and 27 July 1843, 2/8729, Nos. 711 and 823; 10 November 1842, 2/8748, Nos. 530 & 532; 25 September 1843, 2/87527, Nos. 916, 917 & 954; and 9 June 1846, 2/8801, No. 1533.

⁷² See, for example, the manifests of the ships, *Despatch* and *Elizabeth*, which arrived in Sydney from London in 1838, in Appendices 16 & 17.

Newcastle for a very modest freight rate of 10s. per ton.⁷³ Two years later, Rapsey and Mitchell (agents for the schooner *Sophia*) advertised passenger rates of 25s. (cabin) and 10s. (steerage), and freight rates of £1 per ton for a voyage to Newcastle.⁷⁴ These fare and freight prices, however, are modest compared with those claimed by Deputy Commissary-General Laidley in 1828 for an unscheduled return voyage to Newcastle on the *Liverpool Packet* of over £39.⁷⁵ Coastal passenger and freight rates fell during the 1830s, reflecting higher demand as settlement expanded, particularly in the Hunter region, as well as increasing competition among shipowners.

Despite the much higher capital and operating costs of steamers, passenger fares to Newcastle in August 1839 on the steamers *Tamar* and *Sophia Jane* ranged from £1 (cabin) to 10/6d. (steerage), while freight per ton (dead weight) was quoted at 15s.⁷⁶ Live freight (cattle, horses, pigs, sheep and dogs) varied between £1 per head, to £2 per score for sheep. Shipowner, J.T. Wilson, demanded payment in advance, either in cash or by bank draft only, for passage or freight. When he absconded from Sydney soon after, A.B. Spark, J.E. Manning and the other shareholders, who had purchased the vessels in December, were left to sort out the foreign attachments on the two steamships.⁷⁷ It was an unfortunate lesson for all concerned in balancing the need for competitive pricing while maintaining a profit margin.

Freight prices from Sydney to Hobart or Launceston (about 800 miles), Sydney to the Swan River, and from Sydney to New Zealand (1,000 miles) or the South Sea Islands in 1839, were charged at the rates of £1.5s.-£1.10, £1.10s-£2, and £2-£2.10s.

⁷³ Street to Goulburn, 29 January 1824, Colonial Secretary's Correspondence, SRNSW, 4/1778, Reel 6061, p. 67.

⁷⁴ *Sydney Gazette*, 16 January 1826.

⁷⁵ Laidley to Darling, 21 October 1828, SRNSW, Darling's Despatches, ML A1203, p. 737, 932 (1828).

⁷⁶ *Commercial Advertiser*, 17 August 1839, p. 1. This would have included items such as grain, coal and wool. Freight for hides was however sixpence each. Freight on gigs, carriages, carts and drays varied between fifteen shillings and one pound sterling each.

⁷⁷ A.B. Spark, 6 December 1839, in G.J. Abbott & G Little (eds), *The Respectable Sydney Merchant. A.B. Spark of Tempe*. Sydney University Press, Sydney, 1976, p. 113. The purchase value for the two steamers appears to have exceeded their previous sale value.

respectively per ton.⁷⁸ Given the distances involved, the freight charges were modest enough compared with those on coastal voyages. Sailing vessels had a definite advantage, compared with steam, over distance because of their lower operating costs and infrastructure requirements, particularly in the smaller class of vessels not requiring a large number of crew to man the sails. For example, the Hobart Town and Launceston Packet Office, for which Daniel Egan was the Sydney Manager in the 1830s, and John Thom, captain and owner of the brig *William*, ran frequent sailing voyages between the ports. The regularity of such voyages under-cut steam voyages in this trade.

Benjamin Boyd's decision to operate the £30,000 steamer *Seahorse* between Sydney, Boyd Town (Eden), Port Phillip, Launceston and Hobart represented a poor business strategy.⁷⁹ A vessel of 600 tons, propelled by two 150 horse-power engines, she was too unwieldy for many coastal ports and rivers, could not be readily repaired (due to the lack of dry dock facilities), and could not compete on the market economically with the many sailing vessels in the same trade, due to her high operating costs. In order to attempt to cover her operating costs, Boyd's passenger and freight charges for the *Seahorse* were significantly higher than average.⁸⁰ For voyages from Sydney to Hobart and Launceston, cabin and steerage fares cost £10 and £8 respectively, while fares to Boyd Town (intended as a gateway to the Monaro) were respectively £4 and £1 – the low charge for steerage probably intended to encourage skilled workers to that port. Freight charges from Sydney to Hobart or Launceston were £10 per ton, and to Port Phillip £5 per ton. Theoretically, steamers offered advantages in terms of their regularity (not being limited by wind direction and weather conditions) and speed.⁸¹ They also gained some initial advantage in terms of their novelty. It was probably through a combination of this factor, and Boyd's social connections, that the *Seahorse* was able to maintain comparatively high passenger numbers during the first half of

⁷⁸ *Commercial Advertiser*, 17 August 1839, p. 2; see also Macarthur to Labouchere, 3 July 1839 in *HRA*, Series 1, Vol. 20, 10 July 1839, pp. 219-223. These prices were virtually unchanged from the previous year; see for instance, *Commercial Advertiser*, 20 October 1838.

⁷⁹ Boyd's proposal for the purchase and employment of large steamers was outlined in a letter addressed to Lord Russell on 8 October 1840, *HRA*, Series 1, Vol. 21, pp.54-5, 159.

⁸⁰ *Commercial Advertiser*, 24 May 1843.

⁸¹ The *Seahorse* operated a monthly service from Sydney, alternating between the Hobart, and the Launceston/ Port Phillip routes.

1843, with an average of thirty passengers per voyage.⁸² However, the *Seahorse* (either through competition or poor management) did not operate with its promoted regularity and within two years of her arrival allegedly suffered some damage when she was temporarily stranded near George Town, Van Diemen's Land.⁸³

Freight prices from Sydney to London or Liverpool varied according to the availability of shipping and the urgency of consignees to export goods. In November 1834, freight charges were being quoted at 1½ d. per pound for wool; £4.15s. per tun for oil; flax at £4-£4.10s per ton and timber at £3 sterling per load. By December 1839, freights to London were generally higher.⁸⁴ Such variations were demand-driven, as an increasing number of British ships vied to complete their loading. Tallow was becoming an increasingly valuable export commodity for cash-strapped farmers and shipowners alike.⁸⁵ By June 1844, manganese and copper ores (from New Zealand), commanding average freights of two guineas per ton, were shipped to London and Liverpool.⁸⁶

In February 1836 the quotation of freight rates for transporting sugar, coffee and other measured goods from Sydney to London provides confirmation of what was already apparent from the manifests of outward shipping to London, that Sydney had become an entrepot between the Pacific and Far Eastern region and Great Britain.⁸⁷ Local newspapers were also educating the reading public about commodity prices and marketing in Singapore, Manila, Batavia and China.⁸⁸ This information reflected the fact that, with the cessation of the East India Company's China trade monopoly, those regions were now legally open to traders from NSW, as well as English ships seeking additional or alternate freights.

⁸² Calculated from arrivals during 1843, *Shipping Gazette and Sydney General Trade List*, 13 April 1844, pp. 28-31.

⁸³ Boyd v. Royal Exchange Assurance Corporation, Guildhall, 6 July 1846, *Shipping Gazette and Sydney General Trade List*, 28 November 1846, pp. 326-7, and another involving a time policy on the *Seahorse*, 25 May 1847, *ibid*, October 1847, pp. 285-7.

⁸⁴ *Commercial Advertiser*, 14 December 1839.

⁸⁵ *Shipping Gazette and Sydney General Trade List*, 11 May 1844, p. 7. See also Appendix 5.

⁸⁶ *Ibid*, 15 June 1844.

⁸⁷ *Commercial Advertiser*, 4 February 1836, p.2.

⁸⁸ *Ibid*.

This was not necessarily all good news to NSW merchants. For instance, the freight prices for cargoes from Manila, quoted in 1844, were significantly higher than those for freight from Sydney, with the result that no tonnage there was “unengaged.”⁸⁹ While this was potentially good news for local shipowners with shipping readily available, it could effectively reduce the shipping available for other voyages, and drive up local freight and charter prices. In November 1844, shipowners were in heavy demand in Port Phillip, where there was an acute shortage of vessels to convey produce to Europe.⁹⁰ Such shortages were an opportunity for coastal shipping from NSW to transfer produce to Sydney for shipment overseas. On this occasion a number of ships that would otherwise have proceeded to South America in ballast, willingly incurred a charter penalty to take advantage of the higher freight prices. Alternative freight sources reduced local merchants’ bargaining power when it came to local freights.⁹¹ In the competitive world of business there were rarely opportunities without threats.

To some extent, variations in freight rates reflected market demand, the level of competition, and the quality and reputation of shipping available. Variation in the rates offered for various types of cargo, however, were calculated on their absorption of spatial tonnage.⁹² They also reflected calculations of risk, or potential damage to a ship’s hull, as was the case with copper.⁹³ Freight rates may have represented the “bread and butter” of shipowners, but in some respects, even here shipowners could engage in some market manipulation to ensure ample profits.⁹⁴ The monthly mail contract between Great Britain and Sydney, for instance, paid £100 for mail from Great Britain to Sydney per month, and from Sydney to Great Britain at £150 sterling per month.⁹⁵ This differential in mail charges between London and Sydney reflects a more general trend in freight rates suggested by London shipowner Duncan Dunbar.⁹⁶

⁸⁹ *Shipping Gazette and Sydney General Trade List*, 22 June 1844, p. 100.

⁹⁰ *Ibid.*, 2 November 1844.

⁹¹ However the news was already two months when published, and no doubt those who could best respond had already taken advantage of the higher freight rates on offer.

⁹² Dunbar, 11 May 1847, BPP (1847, 4th Report), question 4339ff.

⁹³ Duncan Dunbar, 11 May 1847, BPP (1847, 4th Report), questions 4332-4336.

⁹⁴ Dunbar, 11 May 1847, BPP (1847, 4th Report), question 4489.

⁹⁵ Toulmin to the Secretary of the Admiralty, 15 November 1844, *HRA*, Series 1, Vol. 24, p. 319.

⁹⁶ Dunbar, 11 May 1847, BPP (1847, 4th Report), questions 4202, 4259-4313 & 4489.

He fully expected to be compensated for his lower outward freights by higher freight charges on his inward bound ships from Australia, India or China. While Dunbar professed to condemn the practice of searching for cargoes, he admitted that he would rather reject lower freights on assured wool cargoes from Sydney on the chance of higher freights rates from India. This business strategy, based on the premise of leverage, might well be successful when there was a shortage of bottoms in which Sydney merchants might export their goods. However, Dunbar risked losing goodwill to other shipowners like Robert Brooks.

English shipowners may have monopolised this export freight market, however there were a number of NSW shipowners, charterers and shipmasters who increasingly participated in the trade, including Richard Jones, Raine, William and Thomas Walker, Robert Duke, Street and Robert Towns. NSW shipping agents, such as A.B. Spark and A.B. Smith & Co., were also able to earn a good income from visiting shipping, providing a range of wharf and warehousing facilities, banking, and miscellaneous other services. Generally, the line between “British” and “Australian” interests was quite blurred. Thomas Gore, and his family, J.B. Montefiore and others, all had extensive pastoral interests in mainland Australia, but were also frequent ocean travellers, representatives of British business houses, with American networks. Such men not only stood astride the oceans, but also bridged the gap between traditional shipping activities and entrepreneurial enterprise on the world’s new frontier. This frontier offered excellent opportunities for daring entrepreneurs. However, as I demonstrate in the next chapter, these shipping activities were also fraught with enormous risks.

CHAPTER 5: BUSINESS RISK IN THE NSW SHIPPING INDUSTRY

This chapter examines the nature of business risk in the nineteenth century NSW shipping industry. Normal business risk includes competition, loss of product, changing market demand, changes in the external environment (including government policies) and staffing issues. Success in business involved identifying and applying effective strategies to manage internal and external risks. A number of British companies, such as the East India Company and the Royal Exchange managed the risk of competition through receiving government protection in the form of Royal Charters. Monopolies could also manipulate market demand through withholding products from the market. Joint stock companies such as these also shared the burden of capital and operating costs among their shareholders. Investment in shipping, however, exposed shipowners to a range of other risk factors, including “acts of God”. This raises special issues of risk management for shipowners. I argue that risk management strategies adopted by some shipowners in fact exacerbated rather than reduced business risk. The establishment of the colonial shipping industry may be regarded as an attempt by the shipping industry in Great Britain to contain business risk, and needs to be seen in its global context.

The shipping trade has always been a high-risk speculation, with ships subject to the unpredictable “perils of the sea”, from sudden changes in weather, tides and currents, treacherous reefs, hurricanes and other “freaks of nature”. Meteorological studies indicate that Australasia and its surrounding seas lie in a belt of extreme weather patterns – cyclones, gales, hurricanes, monsoons and typhoons.¹ Sailing ships were especially vulnerable to the effects of such weather events, which could drive a ship hundred of miles off course, onto rocks or reefs. In February 1848, no less than five sandalwood ships were damaged or destroyed during a hurricane in the seas off New Caledonia.² Gale-force winds frequently drove even coastal-hugging shipping onto

¹ Arthur N. Strahler, *The Earth Sciences*, Harper & Row, New York, 1965, pp. 235 ff.

² *Shipping Gazette and Sydney General Trade List*, 1 April 1848.

the NSW lee shores, particularly in the vicinity of Broken Bay and Port Stephens.³ The topography of NSW itself created special hazards for local shipping. The steep escarpment of the Great Dividing Range produced vigorously flowing rivers that regularly dumped deposits of sediment. Sandbars or shoals were created where fresh and tidal waters met, on which coastal shipping (without benefit of marking buoys) was regularly stranded, especially in sudden contrary wind gusts.

A.G. Jones refers to the many risks in the South Seas trade throughout the period.⁴ There were the dangers from the sea, “the risk of running on unknown islands, reefs or shoals, especially at night” in uncharted seas.⁵ The 1836 British Inquiry into the Causes of Shipwrecks identified the “imperfection of charts”, particularly those relating to the Far East and China Seas as one of a number of causes, without making any specific recommendations for its remedy.⁶ Throughout the first half of the nineteenth century, His Majesty’s ships patrolled the seas surrounding Australia, continually updating British Admiralty charts for the benefit of seafarers.⁷ They were not alone in attempting to identify and chart dangerous shoals and reefs, or other marine hazards – merchant shipmasters regularly logged reports with the Custom’s Master on their return to port, and often provided detailed reports of navigational hazards for the benefit of other mariners to local newspapers.⁸ Shineberg’s suggestion that shipmasters in the sandalwood trade only had access to charts created by Captain

³ J.T. Bigge, *op cit*, p. 54.

⁴ A.G.E. Jones, *Ships Employed in the South Sea Trade 1775-1861*, Canberra 1986, Vols II, Parts 3, *Aspects of the South Seas Trade*, pp. 619-626.

⁵ *Ibid.*, 620.

⁶ British Parliamentary Papers, House of Commons: *Report from the Select Committee appointed to inquire into the Causes of Shipwrecks with the Minutes of Evidence, Appendix and Index*. Sessional papers (*Shipping Safety 2*), Volume xvii, Bill Number 567, August, 1836. HMSO, Shannon, Ireland, 1970 (hereafter, BPP (1836)).

⁷ Among the survey ships reported in the local press were *HMS Rattlesnake*, *Vestal*, *Osprey*, as well as the observations made by their commanders, such as those of Captain Blackwood, of the Melanesian islands surrounding New Guinea. See for example, the biography of Francis Blackwood in Anonymous Quarterdeck Cambridge, *The Quest of Francis Price Blackwood, Captain RN*, Cambridge, 1991. Clearly however, an accurate charting of the vast oceans surrounding Australia was an ongoing project, as a report in the *Shipping Gazette and Sydney General Trade List* of 13 June 1846, p. 170, respecting the loss of the barque *Mary Catherine* on the coast of New Zealand.

⁸ Such reports were frequently published in the shipping news of Sydney newspapers such as the *Sydney Gazette*, *Commercial Journal and Advertiser* and the *Shipping Gazette and Sydney General Trade List*.

James Cook, particularly in the 1840s, may therefore not be entirely correct.⁹ For example, London shipmaster, Captain Edward David, commanding the British whaler the *Nelson* for Thomas Sturge left London in October 1828 with up to date Admiralty charts and copies of unofficial charts and log notes made by other masters of South Sea whalers.¹⁰ During his call at Sydney in 1831 to refit, he also purchased local charts from Sydney ships' chandler, Francis Mitchell.¹¹ Local newspapers throughout the period constantly supplemented charts with unofficial reports and bearings for new discoveries made by Australian trading voyages, for the benefit of shipmasters.

The South Seas trade – sealing, whaling, sandalwood, and inter-island Pacific trading – doubtless represented the most high-risk aspects of the shipping industry in the period. Dorothy Shineberg refers to the “unusually great” hazards of the sandalwood trade, not only from “unknown, reef-strewn waters,” but also from the uncertain reception sailors were likely to receive from the Polynesian inhabitants of the islands to which the “sandalwooders” called in search of sandalwood or refreshment.¹² Reports of sudden attack, pillaging, slaughter and firing of ships, and cannibalism, occurred with alarming frequency in contemporary newspapers of the period.¹³

Pacific Island trading vessels, including New Zealand traders, and whalers in the southern fisheries also regularly risked their lives, cargo and their ships at the hands of Melanesian and Polynesian aggressors.¹⁴ In 1828 London shipowner, Thomas

⁹ D. Shineberg, *They Came for Sandalwood: A Study of the Sandalwood Trade in the South West Pacific 1830-1865*. MUP, Carlton, Victoria 1967, pp.82 ff.

¹⁰ See NSWSR, Edward David Intestate Estate 6/3484, File 73, Captain of *Nelson*, whaler (1832), Bundles 1 & 2. These include a comprehensive record of the *Nelson's* business papers – including wages, “slop” accounts, advance notes, “seamen’s sixpence” accounts, as well as accounts for provisions, repairs and refitting incurred on the voyage.

¹¹ *Ibid.* These included a copy of “Dillon’s Voyages,” a Guide to the Fishing Grounds by Captain Bews, (1823-25) and “particulars of a voyage of the Ship “Amelia Wilson to the South Seas, 1818” (which included the seas around “New Holland, Timor, Celebes, Basilan, Mindaneo, Bewe, Mondolo, Limbo, Ternal, Latta, Booton, Token Bessey, Strait of Sumbacca”) (*sic*).

¹² Shineberg, *op cit.*, p. 81.

¹³ Reports of cannibalism, sudden attack and pillaging were particularly reported from the New Hebrides, Solomon Islands and New Zealand, see for example the *Sydney Gazette*, 13 November 1830; the *Shipping Gazette and Sydney General Trade List*, 13 June 1846.

¹⁴ In 1843, Sydney shipowners and merchants, Henry and Joseph Moore lost their whaler, the *Cape Packet* at the New Hebrides, when all the white crew were slaughtered and eaten, the ship pillaged and then set alight. *Shipping Gazette and Sydney General Trade List*, 13 June 1846; Benjamin Boyd was

Sturge, urged the captain of the *Nelson* to “Avoid all intercourse with the natives in uncivilized countries or Islands”.¹⁵ He advised the shipmaster that if he was forced to go ashore, he should restrict the number of Islanders he allowed on board, and maintain a careful watch on them, for “The sagacity of animals in setting a watch should not be lost on us. Always have a good look out kept”.¹⁶

Reports of capture, massacres and cannibalism in the Pacific were commonplace.¹⁷ In April 1834, John Guard, shipmaster of the whaling barque *Harriett* and twelve of his crew were massacred after the vessel was wrecked at New Zealand, while another nine crew, together with Mrs Guard and her three children, were held in captivity.¹⁸ Bourke strongly recommended that one of His Majesty’s ships be permanently stationed there to contain the risks to shipping. The crews of the Sydney whalers, *Cape Packet* and *Mary*, both suffered this fate, the one at the Sandwich Islands, the other at the Laughland Islands, while calling there to refresh. Benjamin Boyd allegedly suffered this fate when his schooner, the *Wanderer*, called at the Solomon Islands.¹⁹

As early as 1700, the British government instituted laws in relation to piracy.²⁰ Alexander Dalrymple may have exaggerated the risk of piracy to the East India Company’s shipping as a result of settlement of Norfolk Island and NSW.²¹ Nevertheless, as Grace Karskens has observed, piracy was encouraged by the

allegedly killed and eaten when his schooner called at the Solomon Islands in 1849. John Webster, *The Last Voyage of the Wanderer*. Sydney, F Cunninghame, circa 1858/61; Joseph Bradley, *A Nine Months’ Cruise in the “Ariel” Schooner from San Francisco in Company with the “Wanderer”, of the Royal Yaght (sic) Squadron, belonging to Benjamin Boyd, Esq.* (circa 1860, JJ Beukers, Parramatta), Whaling Primitive Series No. 2, Brisbane, 1991.

¹⁵ Instructions from Thomas Sturge to Captain Edward David, Captain of *Nelson*, whaler (1832), Edward David Intestate Estate, SRNSW, 6/3484, File 73, Bundles 1 & 2, not indexed or dated, circa October 1828.

¹⁶ *Ibid.*

¹⁷ See for example the accounts of the massacre of the crew of the sandalwooders, *Star* and *Sisters* in Dorothy Shineberg, *op cit.* pp. 43-4, 168-9.

¹⁸ Bourke to Stanley, 23 September 1834, *HRA*, Series 1, Vol. 17, pp.544-5.

¹⁹ *Shipping Gazette and Sydney General Trade List*, 13 June 1846; 15 February 1845; Bradley, *op cit.*

²⁰ *Piracy Act* (1700) 11 & 12 Wm, 3, C7: An Act for the more Effectual Suppression of Piracy.

²¹ Dalrymple to the Court of Directors of the East India Company, 13 July 1785, NLA, Papers of Alexander Dalrymple (1737-1808), MS 43, 4 ff.); and in *A Serious Admonition to the Public on the Intended Thief Colony at Botany Bay*, (London, 1786).

remoteness of convict settlement in NSW and Van Diemen's Land.²² While the early colonial governors instituted very strict regulations in relation to shipbuilding, wharfage and mooring of vessels, the grant of compensation to William Campbell for the loss of the ship *Harrington*, piratically seized by convicts in 1808, set a precedent for claims on the government by other owners.²³ In October 1818, Robert Campbell was still seeking compensation for the loss of the *Venus* at Port Dalrymple when seized by convict pirates while under the government's charge.²⁴ In December 1827, Alexander Berry's cutter, the *Phoebe*, together with its cargo of 8,000 feet of cedar worth £100 was seized by his assigned convicts at Shoalhaven and wrecked in the Society Islands on its way to South America.²⁵ In the same year emancipist shipowner, Thomas Street, similarly claimed compensation for his cutter, *Angelina* after it was seized by convicts at Broken Bay in 1826.²⁶ In 1827 alone, there were 23 individual convictions for piracy in NSW.²⁷

Claims for government compensation also came from shipowners indirectly inconvenienced by convict piracy, such as that from Robert and John Duke whose whaling ship *Sisters* was delayed by an act of piracy involving the *Wellington*. In 1827 the captain and crew of the *Wellington*, chartered by the colonial government to transport convicts to Norfolk Island, was overpowered by a group of convicts, and the vessel thence sailed for the Bay of Islands at New Zealand, before being recaptured.²⁸ This act of piracy probably created a greater financial loss to the owners

²² Grace Karskens, 'This spirit of emigration': the nature and meanings of escape in early New South Wales', *Journal of Colonial History*, Vol. 7, pp. 1-34.

²³ Campbell received 2,000 acres, government stock and convicts on store, *HRA*, Series 1, Vol. 15, Note 133. For example, T.H. Reiby (here referred to as J.H. Reibey) and John Atkinson, with respect to the schooner *Eclipse* in 1830, *HRA*, Series 1, Vol. 15, pp. 544-548.

²⁴ Campbell to Macquarie, 26 October 1818, *HRA*, Series 1, Vol. 10, pp. 404-6.

²⁵ Statement of evidence of Alexander Berry, 6 June 1829, *HRA*, Series 1, Vol. 15, pp. 85-8.

²⁶ Memorial from Thomas Street to Governor Darling, 16 May 1827, Colonial Secretary's Correspondence, SRNSW, 2/4635.

²⁷ Darling to Huskisson, 17 March 1828, *HRA*, Series 1, Vol. 14, p.29.

²⁸ J.R. Elder (ed.), *The Letters and Journals of Samuel Marsden, 1765-1838*. Dunedin, 1932, pp. 424-5; Mal & Rosemary McLennon, (eds.), *Son of Carlisle- Maori Missionary: the Diary of CMS Missionary William Hall*. Galson, New Zealand, 2001, 5 January 1827 and ff. pp 35-8; Darling to Bathurst, 10 February 1827, *HRA*, Series 1, Vol. 13, pp. 103-4; Darling to Bathurst, 14 March 1827, with attachments, including memorial from Captain Robert Duke for compensation, *ibid.* pp. 156-161; Bathurst to Darling, 16 February 1828, with attached letter from John H. Duke of London seeking additional compensation, *ibid.*, pp. 789-91.

of the whaler, *Sisters*, John H. & Robert Duke, than it did for Joseph Underwood, owner of the *Wellington*.²⁹ However, the threat of piracy extended far beyond the threat posed by potential convict escapees.³⁰ The Indian Ocean in the vicinity of the islands of the East Indies, particularly near Timor and the Moluccas, was renowned for piracy.³¹ This threat was considered serious enough to warrant the NSW Legislative Council voting £30,000 in 1849 for the slaughter of the Dayak pirates.³² There were also numerous incidences of piracy at New Zealand, and in the Pacific Islands.³³

The risk did not always come from “natives” of those islands. In September 1843, the colonial trading brig, *Hannah*, called at the Chatham Islands where it was boarded and piratically seized by an English trader, William Ellis, and an American mariner, while the shipmaster, Robert Bell, was ashore.³⁴ With the assistance of Captain Coffin of the American whaler *Sophia and Eliza*, Bell made his way to Pernambuco, reporting the seizure to the British Consul stationed there. The *Hannah*'s seizure resulted in the effective loss of her hull, oil freight and provisions. The British Consul believed that it was likely the *Hannah* would be taken to “the Spanish Main” and reregistered.³⁵

²⁹ John H. Duke to Huskisson, 23 January 1828, *HRA*, Series 1, Vol. 13, pp. 790-1.

³⁰ As early as 1700 the British Government had recognised and attempted to suppress the problem through legislative means, in passing the *Piracy Act* (1700) 11 & 12 Wm, 3, C7 An Act for the more Effectual Suppression of Piracy.

³¹ In February 1825, the government brig *Lady Nelson* sailing for the Melville Island settlement had been captured by pirates here, and her crew murdered; as was the merchant ship *Stedcomb*, in 1826, *HRA*, Series 1, Vol. 12, pp. 225-6; 293.

³² The genocide was planned and conducted in the context of the proposed opening of a steam navigation route between Great Britain and Australia. *Shipping Gazette and Sydney General Trade List*, 20 July 1850.

³³ Two examples of this were the theft of the *Daphne* and the *Lady Charlotte* by Tahitians in 1813, for which piracy Governor Macquarie placed the blame squarely on the allegedly barbaric behaviour of Europeans. *HRA*, Series 1, Vol. 8, pp. 98-118.

³⁴ Seizure of the Brigantine *Hannah*, *Shipping Gazette and Sydney General Trade List*, 23 November 1844, p. 237.

³⁵ *Ibid.* The British Government progressively installed Consuls throughout the remote countries in the South Pacific – including Manilla and Tahiti – who not only represented British trade and political interests, but in particular, provided an essential service to shipowners and mariners throughout the region.

Shipmasters on long voyages far from England faced uncertainty as to the status of the home government's foreign relations with other European nations, and their vessels were at risk of seizure by privateers. Shipowner, Thomas Sturge warned Captain David of the dangers of seizure, suggesting he avoid putting into port or being boarded at sea, because "many a ship has been captured when war has broken out by not observing this plan."³⁶ The risk of seizure of vessels resulting from political hostilities was not the only threat. When the Chinese Imperial Government attempted to enforce its prohibition on opium trafficking by foreign merchants in November 1836 by expelling British merchants and destroying their warehouses, the colonial sandalwood and tea trade received a temporary setback, and the whole China trade and shipping there was brought to a standstill.³⁷ Shipowners also faced the risk of their shipmasters and charterers becoming embroiled in local wars in pursuit of trade articles such as sandalwood or flax, such as had occurred when Captain Stewart of the *Elizabeth* co-joined in the massacre of a Maori chief and his tribe at Middle Island in 1831.³⁸

Barratry on the part of masters or crew remained a major problem to shipowners. The potential for fraud by shipmasters, operating with the virtual power of attorney for shipowners in distant ports, was a great risk. Duncan Dunbar, expressed the matter succinctly when he stated, "we know that with regard to captains and mates very frequently we are putting an immense property under their charge, and without any power of control of them in their absence."³⁹ James Ballingall (a Scottish shipowner), John Powell (Lloyd's underwriter), and Duncan Dunbar all alluded to the practice of

³⁶ Instructions from Thomas Sturge to Captain Edward David of the *Nelson*, SRNSW, 6/3484, Edward David Intestate Estate File 73, Captain of *Nelson*, whaler (1832), Bundles 1 & 2, not indexed or dated, circa October 1828.

³⁷ Michael Greenberg, *op cit*, pp. 198-215. The Treaty of Nanking finally brought hostilities to an end in August 1842.

³⁸ *R. v Stewart*, 16 May 1831; Darling to Goderich, 13 April 1831, *HRA*, Series 1, Vol. 16, pp. 239-241 & 405, 407; Goderich to Bourke, 31 January 1832, *ibid*, pp. 510-513 and Goderich to Bourke, 28 May 1832, *ibid*, pp. 650-655; *Sydney Herald*, 30 May, 6 June, 13 June; *Sydney Gazette*, 4 & 23 June 1831.

³⁹ Testimony of Duncan Dunbar to the Select Committee on the Navigation Laws, 11 May 1847, BPP, 4th Report), Question 4251, p. 6.

such fraud.⁴⁰ When asked if he would approve the introduction of permits allowing shipping stranded in the Australian colonies to be salvaged, sold and given a new British registry, Dunbar strongly opposed the idea on the grounds it would encourage fraud.⁴¹ He alluded to two recent cases of British ships described as “hopeless wrecks” – the *Elizabeth and Jane* and the 700-ton *Sir Robert Peel* – one worth £4,000, the other insured for £7,000, subsequently salvaged, repaired and sold in NSW for £320 and £720 respectively.⁴² Dunbar believed the original owners had been defrauded, and to legitimise such actions served only as encouragement to further fraud on the part of shipmasters.⁴³

Direct fraud, in the form of the sale of a ship in their command in a foreign port, probably required some collusion on the part of the other officers and crew.⁴⁴ However, some captains also engaged in more subtle forms of fraud such as the sale of provisions or equipment, or charging excessive expenses to the ship’s account.⁴⁵ Smuggling activities by shipmasters, charterers or crewmembers also jeopardised the property of shipowners. Numerous cases of seizure of vessels occurred in NSW waters as zealous Customs Officers sought control over shipping in coastal waters.⁴⁶ A major preoccupation of shipowners testifying before the House of Commons Select Committees on Shipwrecks in 1836 and 1843, and on the Navigation Laws in 1847 and 1848, with respect to the introduction of examinations for masters and mates,

⁴⁰ Testimony of James Ballingall, 1 July 1836, Select Committee on Shipwrecks, BPP (1836), pp 1-11; Testimony of John Powell, BPP (1843, 1st Report), pp.312-316; Testimony of Duncan Dunbar, 18 May 1847, BPP (1847, 4th Report), Questions 5088-5090, p. 58.

⁴¹ The suggestion had come from Samuel Browning, Benjamin Boyd’s representative at the 1847 inquiry, 18 March 1847, BPP, 1st. Report), *ibid*, questions 1063-1074, pp. 97-99.

⁴² *Ibid*, Question 5090, p. 58.

⁴³ Browning, BPP, *ibid*, Questions 5088-5090, p. 58.

⁴⁴ This was not necessarily the case however, as the wages suit, *Johnson v. Champion*, revealed. The crew of the *Sir Robert Peel*, despite making every effort to recover her freight and stores after she was wrecked were successfully defrauded of their wages by the shipmaster and abandoned, *Shipping Gazette and Sydney General Trade List*, 13 March 1847.

⁴⁵ Testimony of Captain Anthony Ridley, 15 June 1843, before the 1843 Select Committee on Shipwrecks, in BPP (1843), Questions 3014, p. 147 and 3080, p. 202.

⁴⁶ For example, *R. v. Schooner Darling*, NSW Supreme Court, 29 December 1829, Dowling, *Proceedings of the Supreme Court*, Vol. 30, SRNSW, 2/3213 (1); *Australian*, 18 June 1830; and *Noble v. Cotton et al*, NSW Supreme Court, 31 March 1830, *Sydney Gazette*, 16 March 1830; *Australian*, 17 & 31 March 1830. Also (regarding *Fair Barbadian*) Gipps to Stanley, 29 March 1843, *HRA*, Series 1, Vol. 22, pp.598-601.

considered an inquiry into moral character and reputation as important as seamanship and navigational skills.⁴⁷

Piracy on the part of mutinous crews, especially those having the support of a ship's officer, also posed an ongoing risk.⁴⁸ There was no single reason for mutiny, and potential piracy by crewmembers. Apart from the usual culprits - such as poor provisions, low wages and extended voyages - drunkenness on the part of the crew or captain, bad management, and lack of confidence in the captain's navigational skills or seamanship, sometimes played a significant role.⁴⁹ Both the 1836 and 1843 British Inquiries into Shipwrecks dealt at length with the issue of drunkenness and incompetence of shipmasters and officers.⁵⁰ The 1836 Inquiry identified one of the major causes of shipwreck as being a "want of skill and knowledge of seamanship, [on the part of captains] but more frequently from the want of an adequate knowledge of navigation."⁵¹ In testimony before the 1836 House of Commons Select Committee on Shipwrecks, British shipowner and former shipmaster Henry Woodruffe claimed that:

I should also state, in consequence of the officers being so imperfect in the management of the vessels, the men that are seamen look on them with disgust; and many times, instead of moving with alacrity to the

⁴⁷ Testimony of Captains James Barber, (Question 3246, p. 215), Anthony Ridley, (p. 66), George Kendall, (Question 2583, p. 168) and shipowners Joseph Somes, (Question 953, p. 63), and James Straker, (Question 2395, p.158), in BPP (1843).

⁴⁸ R v. Firth and others (29 February 1832), SRNSW 2/3466, p.139; T.D. Castle & Bruce Kercher (eds), *Dowling's Select Cases 1828-1844: Decisions of the Supreme Court of New South Wales*, Sydney 2005, pp. 927-928); *R v. Kay and others* (11 November 1835), Selected Cases, Vol. 7, SRNSW 2/3460, p. 80; in Castle et al. *ibid*, p.928.

⁴⁹ The 1836 Select Committee on Shipwrecks recognised drunkenness as one of the main reasons for shipwrecks – It concluded that "almost all the cases of insubordination, insolence, disobedience to orders, and refusal to do duty, as well as the confinements and punishments enforced as correctives, both of which must for the time greatly lessen the efficiency of the crews, being clearly traceable to the intoxicating influence of the spirits used by the officers and the men", BPP (1836), p. 20, vii.

⁵⁰ Testimony of Henry Woodruffe, 5 July 1836; Testimony of George Coleman, (ex-EIC commander and private navigation instructor and examiner), 8 July 1836, BPP: (1836); Testimony of Captains William Cole, Johnson Hicks, Joseph Needham Taylor, George Kendall, James Barber at the 1843 Inquiry all advocated the introduction of examination for captains and mates. This was opposed by Joseph Somes, (London shipowner) and Captain Anthony Ridley, (Chairman of the Shipowner's Society). See BPP (1843) (First Report).

⁵¹ BPP (1836), *op cit.*, recommendation 18, vi.

order from the quarter-deck, they stand thunderstruck to see the orders coming so promiscuously contrary to the rules of nautical science.⁵²

The 1836 Inquiry recommended both the establishment of cheap nautical schools, examinations and certification for masters and mates in navigation and seamanship, and the removal of such certificates in the event of their consequently proving to be negligent, drunk or inhumane in the management and discipline of their crew.⁵³ David Williams and Valerie Burton contended that the introduction of compulsory examinations for (non-coastal) masters and mates in 1851 was designed to exclude promotion from the lower ranks, and preserve the profession for the middle-class.⁵⁴ Testimony given at both the 1836 and 1843 Inquiries, as well as during the Inquiry into British Navigation Laws in 1847-8, suggested that it was not in fact the practice of promoting seamen from the forecabin to officer that was at issue.⁵⁵ On the contrary, shipwrecks were more frequently caused from the practice by shipowners of appointing officers with limited sea experience for reasons of patrimony or family connection.⁵⁶ This will be discussed in greater detail in Chapter Nine.

An example of such incompetence on the part of a shipmaster was the case of Captain John Nutting of the convict transport *Hive*.⁵⁷ In December 1835 the ship was wrecked off Jervis Bay, when the captain miscalculated her position. Chief Mate, Edward Kenny, testified to a Board of Inquiry in February 1836 that he had pleaded with the captain to alter course knowing the captain's reckoning to be faulty, but the captain refused and retired to bed. Such disputes were not uncommon, however few officers

⁵² Testimony of Henry Woodruffe, 5 July 1836, BPP (1836), *ibid.* p.33.

⁵³ BPP, *ibid.*, recommendation 35, 31 and 36 respectively, p. ix.

⁵⁴ David W. Williams, 'A Period of Transition': Personnel in the British Mercantile Marine in the First Half of the 19th Century', in J. Bruijn & M. Bruyns, *Anglo-Dutch Mercantile Marine Relations, 1700-1850*, Rijksmuseum Nederlands Scheepvaartmuseum, Amsterdam, 1991.

p. 122; Valerie Burton, 'The Making of a Nineteenth Century Profession: Shipmasters and the British Shipping Industry', in *Journal of the Canadian Historical Association*, 1990, New Series, Vol. 1, pp. 97.

⁵⁵ BPP (1836), (1843), (1847) (1848), *op cit.*

⁵⁶ In particular, the testimony of Henry Woodruffe, 5 July 1836, *op cit.*, questions 353-372, pp.25-6; questions 509-10, p. 33; testimony of George Coleman, navigation instructor, 8 July 1836, questions 656-662; 681-698, 707-708, pp. 44, 47-8.

⁵⁷ Court of Inquiry, 11 February 1836, *HRA*, Series 1, Vol 18, pp. 232-3, 360.

or crew dared openly disobey the commands of their captains, even though the stakes might be very high in terms of certain shipwreck, subsequent loss of wages, and possible loss of life.⁵⁸ Disobedience at sea, whether it was justified or not, was a serious criminal offence. However, offenders were sometimes charged under the more serious offence of mutiny, and if proven, could receive the death penalty.

Some of these issues arose directly from attempts by owners to “cut corners” in relation to operational costs such as wages or provisions. With the exception of apprentices, seamen very rarely experienced continuity of employment, being employed on a voyage-by-voyage basis. While this employment strategy reduced shipowners’ operational costs, it did have implications both in terms of loyalty and team dynamics.⁵⁹ Work on sailing ships required not only a high degree of cooperation between shipmasters, officers and crew in the performance of their duties, but also in their daily living arrangements. Recent studies of team dynamics in the workplace suggest that all teams experience particular stages of development.⁶⁰ Effective teams require a period of stability in their lifecycle before they develop to the stage of high productivity, high morale, loyalty and group cohesion.⁶¹ A sailing ship, however, had very different operational demands to most workplaces. Seamen had to respond promptly and in unison to commands, and they often worked under conditions of great stress, where natural events threatened their personal safety, physical stamina and health. In addition to working split shifts, their sleep might be abruptly interrupted by the sudden call of “all hands on deck!”

Valerie Burton suggested that the nineteenth century shipmaster was “the supreme arbiter on board ship,” drawing similarities between the hierarchical structure of

⁵⁸ Under British law, seamen received no wages if their vessel was shipwrecked. This harsh law was no doubt imposed in the interests of shipowners to act as an incentive to seamen to exert themselves in the protection of their ship.

⁵⁹ J. Press, ‘Philanthropy and the British Shipping Industry 1815-1860’, *International Journal of Maritime History*, Vol 1, No 1, 1989, pp 111 &131.

⁶⁰ Kris Cole, *Supervision. Management in Action*. Sydney, 1998, pp. 601-605.

⁶¹ It was the rare nineteenth century shipowner, such as the philanthropic Richard Green who understood this, introducing measures such as a Seamen’s Home to maintain the loyalty of seamen, Press 1989), *op cit*. 123.

sailing ships and “the class-stratified society” of the period. She argued that the introduction of examinations for masters and mates was part of an attempt by the middle class to contain a looming class struggle.⁶² Evidence presented to the 1836 and 1843 Select Committees, and discussed during the 1847 and 1848 Inquiry into the Navigation Laws, provides a very different interpretation. It was in fact the prevailing opinion among most British shipowners and shipmasters that a shipmaster “brought up to the sea,” and having served time as apprentices and seamen made more competent shipmasters than “gentlemen”.⁶³ Practically, sailing ships required a hierarchical style of management. Such a system did not necessarily equate with despotism. As in all workplaces, leadership style on board ship to some extent reflected the personality of the leader. There is evidence that some shipowners and commanders were committed to a consultative or at least paternalistic style. London shipowner, Thomas Sturge, for example, specifically instructed Captain David of the whaler *Nelson*, to treat those under his command with courtesy and respect, and to lead by example.⁶⁴ While Sturge’s advice was couched in paternalistic terms, it reflected sound human resource management principles, designed to address one important element of business risk.

Seamen’s temporary work contracts were certainly not conducive to the development of highly performing and loyal teams, with the exception of those undertaking long voyages, especially on whalers. It was a system that encouraged sailors’ reliance on the credit facilities offered by “crimps”, particularly in ports distant from home.⁶⁵ Indeed there is some evidence to suggest that shipowners and shipmasters also used “crimps” as recruitment agents, and that sailors were often deliberately made “tipsy” in order to make it easier to place them aboard “unseaworthy” ships.⁶⁶ This strategy,

⁶² Valerie Burton, *op cit*, pp. 97-118.

⁶³ For example Testimony of Joseph Somes, Question 934, p. 62; Joseph Straker, Question 2395, p. 158; Robert Anderson, Questions 1967-1974, p. 124. BPP (1843), *op cit*.

⁶⁴ Sturge to David, October 1828, Intestate Papers of Edward David, *op cit*. Bundle One.

⁶⁵ The 1836 Select Inquiry, *op cit*., recommended the establishment of sailor’s homes and sailor’s savings banks to address the issue of reliance on crimps, recommendation, BPP (1836), *op cit*, Recommendation 33, ix..

⁶⁶ Testimony of Henry Woodruffe, shipowner and Chairman of the South Shield’s Seaman’s Society, 5 July 1836, BPP (1836), *op cit*, Question 514, p. 33.

if employed, would have been exceedingly risky. Drunkenness, in officers and men, was identified as one of the major causes of shipwreck in testimony given to both the 1836 and 1843 inquiries into shipwreck.⁶⁷ Sydney shipowner, Frederick Parbury, advised the 1848 Select Committee that one of his firm's major problems in employing English crew for its whaling fleet was the problem of drunkenness.⁶⁸

Some rare individuals like Captain James Barber proudly claimed to have had many seamen in his employ for up to seventeen years. He always inquired after the characters of his seamen, and never accepted any recommended by "crimps".⁶⁹ London shipowners, George and Richard Green, employed the unusually philanthropic strategy of providing their seamen, ashore in London, with a Seamen's Home, as well as making provisions for the widows, wives and families of disabled or deceased sailors, and educational facilities for the children of sailors.⁷⁰ They inspired Captain John Nicholson, commander of the ship *George the Fourth*, to rally Sydney shipowners and merchants behind the establishment of a Seaman's Home similar to those established by the Greens in London and another in Calcutta, during 1839.⁷¹ However, by 1824 Sydney shipowners had also established a Bethel Union, based on those already established in Liverpool and America, to combat the problem of alcoholism among sailors, and to address their spiritual and welfare needs.⁷² While shipowners were not ready to offer seamen regular and permanent employment contracts to secure their loyalty, the establishment of a Bethel Union and the provision of Seamen's Homes may be seen as part of a risk management strategy, designed to address staffing issues.

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⁶⁷ Joseph Staker, shipowner and builder of North Shields, for example testified to the 1843 Committee on 1 June 1843 that in addition to seamanship and navigation, shipowners also needed to assure themselves of the sobriety and moral character of their employees, BPP (1843), question 2405-6, *op cit*, p159.

⁶⁸ Frederick Parbury, 23 March 1848, BPP (1848), questions 1360-1459, pp.122-6.

⁶⁹ Testimony of Captain James Barber to the British House of Commons Select Committee on Shipwrecks, 1843, BPP (1843), Question 3229, p. 214.

⁷⁰ Press, *op cit*, pp. 111, 121.

⁷¹ *Commercial Journal*, 9 February 1839; 24 April 1839 and 1 May 1839.

⁷² *Sydney Gazette*, 11 May 1824.

In terms of the English whaling industry, the South Seas fishery bore all the hallmarks of what Australian strategic business consultants, John Viljoen and Susan Dann, have described as a “high risk” strategy, “the commitment of substantial resources for long periods of time.”⁷³ The initial capital investment, including the cost of a new 500-ton coppered ship, complete with masts, sails and rigging, and provisioning from eighteen months to four years, whaling gear, advance wages and insurance premiums, cost upward of £30,000.⁷⁴ The ultimate returns for the investment were both uncertain and delayed for eighteen months to five years. One strategy that shipowners in the whaling industry frequently used to reduce their risk capital was by linking wages directly to productivity through the “lay system”.⁷⁵ Such a system predicated the honesty of both the shipowner and shipmaster.⁷⁶

The high level of risk attached to the English South Seas whaling industry is perhaps nowhere better illustrated than the case of the *Harriett*, owned by Messrs. Boulcott of London.⁷⁷ That ship left London in June 1839 and during a five-year absence her owners renewed her insurance yearly for the amount of £1,500 per annum, paying a total of £7,500 in premiums. She was finally reported at Sydney as having been pillaged and burnt by “natives” at Strong’s Island in the Carolines, with the massacre of her whole crew and the loss of her valuable oil cargo.⁷⁸ In 1843, another whaler, the *Sarah and Elizabeth*, was similarly attacked, with a total loss to Thomas Sturge,

⁷³ John Viljoen & Susan Dann, *Strategic Management*, 3rd ed. Longman, Frenchs Forest, 2000, p.29.

⁷⁴ Based on testimony given to the House of Commons’ *Select Committee on the Navigation Laws* in 1847 and 1848. John H. Duke, in a letter to Rt. Hon. W. Huskisson on 23 January 1828, advised that he had paid £10,000 just for provisioning the whaler *Sisters*, and another £800 in insurance premiums. At a rough estimate of insurance costs of 12% for a time policy over two years, this would have placed a nominal value of £9,600 on her estimated cargo. *HRA*, Series 1, Vol. 8, pp. 790-1.

⁷⁵ This was based on a share system, with all crewmembers being paid a percentage of the net profits according to their rank and seniority.

⁷⁶ Seamen had no means of knowing the value of the net proceeds of the voyage, and therefore no way of checking whether they had received their correct entitlement. There is also evidence that some shipmasters deliberately engaged in conduct designed to encourage crew to desert, and thus lose their entitlement, while increasing their own share of the profits, ‘Notes during a Run from Port Jackson to Hong Kong in HMS Vestal, 1844’, *Shipping Gazette & Sydney General Trade List*, 15 November 1845.

⁷⁷ A.G.E. Jones, *Ships Employed in the South Sea Trade 1775-1861*, Vol. II (Part 3), Roebuck, Canberra 1986, p. 622.

⁷⁸ *Shipping Gazette and Sydney General Trade List*, 31 August 1844.

her owner, (including 850 barrels of uninsured sperm oil) of £12,000.⁷⁹ Whalers generally were well equipped with guns, muskets, gunpowder and other weaponry to forestall (or defend themselves) in case of attack.

There were other aspects of risk over which whaling interests and shipowners could exercise control. These included minimising initial capital expenditure, such as the cost of shipping; reducing operational expenditure, such as wages and provisioning, or (in the case of English investors) offsetting costs by taking advantage of government incentives (such as bonuses and tariff rates), or procuring government charters for the carriage of convicts, soldiers and emigrants.⁸⁰ All these alternatives required some measure of government cooperation. Both the British Navigation Laws and Merchant Seamen's legislation protected British ships and seamen from the effects of overseas competition. However, NSW shipowners (particularly those investing in the whaling and sandalwood trades) considered these laws a dubious privilege. Sydney shipowner, Frederick Parbury, for example, had a low opinion of British seamen, considering them generally to be unreliable drunkards, without the daring and skills to pursue whales. He compared them unfavourably with Polynesian or other European seamen, against whom the British legislation discriminated.⁸¹ Rather than continuing to risk their capital in the whaling industry, Lamb and Parbury withdrew from that industry.⁸²

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Shipowners often invested large capital, and their livelihood could be lost suddenly and unpredictably. Along with their own livelihood, the lives of their employees, customers and valuable cargo could be damaged, lost or ruined. While the “perils of

⁷⁹ Jones, *loc cit.*

⁸⁰ Viljoen & Dann suggests that business investors sometimes attempt to increase short-term returns through reducing expenditure on technology, infrastructure or staff, *op cit.*, p. 19. There is considerable evidence that these strategies were frequently employed during the period 1820-1850 eg. failure by shipowners to supply essential navigation equipment such as chronometers and up to date charts; employing seamen by the voyage rather than as permanent employees. English whalers frequently took advantage of government charters for the transport of convicts, soldiers and emigrants to both offset costs and to provide shorter-term returns to counterbalance their long-term risk.

⁸¹ The British Navigation Laws, designed to “encourage” a “nursery for seamen” potentially to man the British Navy required three-quarters of crew employed on ships to be British. Dunbar, 18 May 1847, BPP (1847), *op cit.* question 4987.

⁸² Testimony of Frederick Parbury, 23 March 1848, BPP (1848), Questions 1360-1459, pp. 122-126.

the sea” were the unique risk of the shipping industry, shipowners also faced the risks inherent in any business activity – competition, fluctuating prices and costs. Possibly more than any other trade, shipowners also were exposed to all the risks inherent in delegating responsibility for their sizable capital to captains and agents far beyond their immediate control or oversight. In 1698, an anonymous English grocer, the owner of a quarter share in the ship *Betty*, jubilantly observed its loss, commenting “if the old bitch of a *Betty* had survived the dangers of the sea much longer, I believe she and the master together would have brought me to the parish.” He went on to describe the merchants as “a pack of sharpers”, the captains as “arrant knaves”, a ship as “but a doubtful confidant”, and the sea as “a mere lottery”.⁸³ The grocer may have regretted his speculative gamble as a shipowner and been able to return to his safer investment as grocer, with its less steady and unspectacular turnover. For some shipowners such as nineteenth century London shipowner Joseph Somes, with over a £1,000,000 capital tied up with shipping alone, such jubilation would have been inappropriate to the point of insanity.⁸⁴

That the business risks inherent in ship owning were not substantially altered over the next one hundred and fifty years is evident from the British Parliamentary Select Committee’s inquiry into the causes of shipwrecks in 1836, the protracted debate over Free Trade, and a raft of other inquiries into the shipping industry and civil suits heard in the Vice-Admiralty and other and court jurisdictions, prior to 1850.⁸⁵ During the

⁸³ E.Ward, from the *London Spy*. (published 1698) R.Strauss (ed.), 1924, p.378. Quoted in Ralph Davis, *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries*, Macmillan & Co., London 1962, p. 107.

⁸⁴ The calculation is based on Joseph Somes testimony to the 1843 House of Commons Select Committee on Shipwrecks, in which he attested to being the owner of forty-five ships, which based on contemporary London prices, would give a value of over £900,000 alone, without any other capital or operational costs, such as wharves, provisioning, wages. BPP (1843), pp.59-74, especially question 928, p. 62.

⁸⁵ BPP (1836), pp I-xii, 1-388 and 1-39. See especially R.W. Prouty, *op cit*, and J.H. Clapham, ‘The Last Years of the Navigation Acts’, in *The English Historical Review*,XXV, 1910, pp. 480-501 and 687-707; P.G. Parkhurst(ed.), *Ships of Peace: A Record of some of the problems which came before the Board of Trade in connection with the British Mercantile Marine from the early days to the year 1885*, Vol. 1, Surrey, 1962.An index to the relevant inquiries into shipping and shipwrecks may be located in the General Index to the Sessional Papers from the Union with Ireland to the Termination of the Seventeenth Parliament of the United Kingdom, 41 Geo.3. to 22 Vic. 1801-1859. Printed by order of the House of Lords or presented by Royal Command, George Edward Eyre & William Spottiswoode, London, MDCCCLX, pp.831-2 & 839-848.

1830s, Lloyd's statistical returns of losses at sea indicated that each year over 2,000 men were drowned and over 500 ships worth more than £3,000,000 were lost through either natural events or negligence or both.⁸⁶ The Australian shipping industry during the period 1821-1852 was proportionately at least as hazardous a business, as the Lloyd's figures suggest for the whole of British shipping. It could be argued that the surrounding oceans and coastline of Australia provided some special risks in the form of uncharted reefs and shorelines, treacherous seas, and severe gales and hurricanes.

Accurate shipwreck statistics for the NSW shipping industry are unfortunately not available. Charles Bateson identified at least 850 British vessels that were lost either in Australian waters, or in the Australian trade, alone up to 1850.⁸⁷ Malcolm Tull noted, in 1988, that maritime archaeologists had discovered over 7,000 shipwrecks in Australian waters alone, only 500 of which had been identified.⁸⁸ A more recent study, published in 2006, placed the total figure for shipwrecks in Australian waters or connected with the Australian trade at no less than 15,600 vessels.⁸⁹ This figure is extraordinarily high, illustrating the immense risks to which shipowners and others were exposed once trade was established with the East Indies and Pacific. While these included ships en route to Australia, a significant number were locally owned ships, whose loss in terms of shipping, cargoes and crew must have placed a significant financial burden on the economy, as well as on their owners and families involved.

While shipping in the Southern Ocean was particularly susceptible to severe cyclones in winter, such storms could occur at any time. In March 1847 the English ship *Harpooneer* bound direct for Swansea and London, loaded with a cargo of wool, copper and passengers from Adelaide was caught in a severe storm creating

⁸⁶ Prouty, *ibid.* p.30-31; Parkhurst, *ibid.*, pp. 133-4.

⁸⁷ C.Bateson, *Australian Shipwrecks, Including Vessels wrecked en route to or from Australia, and some strandings*, Vol. 1: 1622-1850, A.H. & A.W. Reed, Sydney 1972.

⁸⁸ *Ibid* The figures is based on a count of the shipwrecks listed. This is by no means an exhaustive list. Malcolm Tull, 'Australian Maritime History: A Progress Report', *Journal of Transport History* Vol. 9, 1988, p. 89.

⁸⁹ *Encyclopaedia of Australian Shipwrecks and other Maritime Incidents*, Oceans Enterprises, Yarram, Victoria, 2006.

“mountainous seas” in the high latitudes.⁹⁰ After jettisoning 100-tons of copper ore and her guns, the Sydney based Captain Papps finally managed to bring his leaky vessel limping into Port Jackson for repairs one month later.⁹¹ Despite additional repair and insurance costs, demurrage and other expenses incurred during the six months their vessel was being repaired at Port Jackson, its London owners, Green and Money Wigram, may have been relatively lucky. A number of other vessels were totally lost in these waters, many of them wrecked on King Island, while Kangaroo Island off the entrance to Port Adelaide was another notorious site for shipwrecks.⁹²

One of the Australia’s worst sea disasters was the shipwreck of the British emigrant ship bound for Port Phillip, *Cataraqui* wrecked on a reef during a severe gale at King’s Island with the loss of 414 lives, on 4 August 1845.⁹³ A report of a preliminary hearing into the tragedy, heard in the British Vice-Admiralty Court in London in 1846, suggested that while no blame attached to either the owner or to the captain and his crew, several factors contributed to the disaster.⁹⁴ These included the failure of the ship to be provided with the latest Admiralty charts, the routine neglect by captains and crew of emigrant ships to perform “leading” to measure sea depth, and the failure of government to provide adequate lighthouses and beacons.⁹⁵ The matter of providing adequate Admiralty charts, lighthouses and beacons had been one of the major subjects of deliberation by the 1843 House of Commons Select Committee on Shipwrecks.⁹⁶

⁹⁰ Part of the journal of Captain John Papps, of the *Harpooneer*, Master Mariner on a voyage from Adelaide to London, describing a severe storm out of Adelaide, in which the ship received severe damage, and published in the *Shipping Gazette and Sydney General Trade List*, 15 May 1847.

⁹¹ *Shipping Gazette and Sydney General Trade List*, 28 April 1847.

⁹² Situated at the western entrance to Bass Strait the island had claimed over sixty ships. Evan McHugh, *Shipwrecks: Australia’s Greatest Maritime Disasters*, Australia 2003, p.115; see also G.D. Chapman, *Kangaroo Island Shipwrecks*. Roebuck, No. 6, Canberra, n.d.

⁹³ McHugh, *ibid*, pp. 113-131.

⁹⁴ *Shipping Gazette and Sydney General Trade List*, 20 June 1846, p.4.

⁹⁵ *HRA*, Series 1, Volume 24, pp. 762-3. Messrs. W Smith and Sons who had chartered the vessel, Robert Brooks and John Wilson the ship’s owners, as well as Royal Naval Lieutenant Hodder attested to the competence, skills and character of the Commander and Chief Officer, while the Chairman for Lloyd’s classification committee attested to having surveyed the ship and given her an A1 register for five years in 1840.

⁹⁶ BPP (1843) *op cit*. In this respect, the focus of the Committee had significantly changed from that of the 1836 Committee, which had mainly focussed on the shortcomings of the *private* shipping interests.

Unable to attach blame to the navigational or seamanship skills of the crew, or to the quality of the ship, the British government attempted to shift the blame for their own failure to approve funds for the construction of lighthouses in the area onto the NSW and Tasmanian legislatures over the previous four years.⁹⁷ To some extent the criticism was a valid one. Following a letter from Sir John Franklin, Lieutenant-Governor of Van Diemen's Land, a Committee of the NSW Legislative Council reported on the subject of constructing lighthouses in Bass Strait in 1841, but postponed voting funds for the project "owing to the depressed state of the Finances of the Colonies between the years 1841 and 1845".⁹⁸ It was not until late in 1845 – after the disastrous loss of the immigrant ship *Cataraqui* - that the sum of £9,000 was voted in the Appropriation Act of 1846 for the construction of four lighthouses in Bass Strait.⁹⁹

That local shipowners engaged in the coastal trade were not immune to the "perils of the sea" is reflected in a memorial from Sydney emancipist shipowner, Thomas Street, to Darling in 1827.¹⁰⁰ Street's vessels were regularly shipwrecked, stranded, pirated, plundered, burnt or seized by customs, mostly in NSW coastal waters. His new cutter *Angelina* was taken by pirates on its third trip to Broken Bay, with a cargo of lime. In April 1826 he lost his cutter *Amelia* after it was stranded on a return voyage to Sydney with a load of coal. His schooner *Newcastle*, similarly on a return voyage with coal, foundered at sea with all hands perished, in August 1826. In September 1826, his schooner *Darling*, proceeding to Newcastle, was driven on shore in a gale, losing its anchors, cables and rigging, and sustaining a great amount of damage. In June 1828 he also lost the cutter *Dove* stranded at Port Stephens by a storm.¹⁰¹ Less than two years later the *Darling* was seized by Customs, allegedly attempting to smuggle spirits. The seizure was to become the centre of a protracted

⁹⁷ *Ibid.* Under Secretary Stephen to Captain Hamilton, 17 March 1846, p. 820; Gladstone to Fitz Roy, 17 March 1846, *HRA*, Series 1, Vol. 24, p. 819.

⁹⁸ Gipps to Stanley, 21 November 1845, *ibid.*, pp.618-619.

⁹⁹ Gipps, *HRA*, *ibid.*

¹⁰⁰ Street to Darling, 16 May 1827, Colonial Secretary's Correspondence, SRNSW, 2/4635. Twelve years later Street and his family almost lost their lives when the ship, the *Despatch*, owned by Street in which they were returning to England caught fire, destroying both ship and cargo.

¹⁰¹ *Sydney Gazette*, 13 June 1828.

battle over jurisdiction between the Supreme Court and the Vice Admiralty Courts of NSW.¹⁰² As a shipowner Street suffered losses from fraudulent or alcoholic captains, as well as attacks on his reputation by competitors, disgruntled seamen, and not least by the involvement of Captain William Stewart in the massacre of a Maori tribe in 1831 while in command of the chartered ship *Elizabeth* on a flax voyage at New Zealand.¹⁰³ His most serious loss was the destruction of the ship *Despatch* near Lord Howe Island in March 1839, when its wool and oil cargo caught fire on its return to London.¹⁰⁴

Despite the high-risk nature of ship ownership, Street continued to invest heavily in shipping, branching out from coastal shipping, to the Pacific trade, bay whaling at New Zealand, pelagic whaling, steam shipping, and to the Australia trade between London and Sydney. Street's colonial career as a shipowner from 1823 to 1840, when he finally departed to take up residence in London as a merchant, is illustrative of the very speculative nature of the industry. In 1839 another Sydney merchant and ship owner, W.H. Chapman, was forced to give up his business operations in Sydney and move his family to his Port Macquarie estate, following a series of ill-fated voyages.¹⁰⁵ The loss of Chapman's schooner, *Ann*, wrecked at the bar on the Macleay River on 14 April 1839 was the last in a series of misadventures that caused him considerable financial grief.¹⁰⁶ However, despite their losses, both the ship owner and

¹⁰² J.J.Dowling, Proceedings of the Supreme Court, NSW Supreme Court papers, SRNSW, 2/3213 (1), Vol. 30, in Castle & Kercher (eds), *op cit*, from 29 December 1829-16 June 1830.

¹⁰³ The *Elizabeth* had been allegedly chartered by Cooper and Street for the voyage, R. v. Stewart, NSW Supreme Court, *Sydney Herald*, 30 May 1831 and 6 June 1831. The newspaper reports him as George not William Stewart. There in fact seems to be some confusion here, as in fact it was the wealthy merchant, Joseph Barrow Montefiore who had chartered and accompanied the vessel on this voyage as supercargo. Street was in the United Kingdom at the time of this occurrence, having given the firm of Cooper and Levey his power of attorney. See Government Despatches, *HRA*, Series 1, Vol. 16, pp. 239-241, 407, 513, and 650-655; see also J. O'Connell Ross, *William Stewart, Sealing Captain, Trader and Speculator*. Roebuck Society, No 37, Aranda Press, Canberra, 1987, p. 154.

¹⁰⁴ *Commercial Advertiser*, 27 March 1839. A similar fire had destroyed the wool ship *Edinburgh* in March 1836, *Commercial Advertiser*, 20 April 1836.

¹⁰⁵ *Commercial Advertiser*, 27 April 1839, p. 2.

¹⁰⁶ *Ibid.* The newspaper estimated his shipping losses at over £8,000.

merchant survived their series of misfortunes, and continued to flourish in their ship-owning and mercantile pursuits.¹⁰⁷

Shipowners developed a number of risk management strategies. These included sharing risk among a number of owners; reducing capital investment through purchasing cheaper or second-hand ships; building ships designed to maximise cargo space; reducing operating costs (wages, repairs and maintenance, and provisioning); increasing freight charges; and insuring their ships and freight against loss. These strategies will be explored in greater depth in the following chapters. Some strategies posed their own risks, as is clear from the evidence testified before the British House of Commons Select Committees on Shipwrecks in 1836 and 1843 and again during the 1847-8 inquiry into the British Navigation Laws.¹⁰⁸ However, these same risks also presented great opportunities to others. The local businesses in ship repairs, provisioning and marine insurance boomed. Despite all the hazards and costs, ship-ownership in NSW flourished, particularly from the mid-1830s. Clearly, local opportunities were sufficiently attractive to outweigh all the hazards and risks associated with ship ownership.

¹⁰⁷ On 8 May 1852, the *Maitland Mercury* reported that the *Glenuart*, property of W.H. Chapman, which was insured for £400 had lost its rudders etc on the McLeay River bar.

¹⁰⁸ BPP (1836), pp I-xii, 1-388 and 1-39; and BPP (1843).