Aspects of the career of Alexander Berry,
1781-1873

Barry John Bridges
University of Wollongong
NOTE

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Chapter 2

MERCHANT, 1806-1819

Ships employed by the East India Company were cramped, crowded and uncomfortable although the pick of the British merchant navy of the time.\(^1\) The conditions in which surgeons worked in the gloomy lower deck were appalling by any standard.\(^2\) Desertions were likely wherever an East Indiaman touched port, with surgeons and their mates amongst those who ran.\(^3\) A surgeon's mate was paid 50s a month, a surgeon 65s, compared with 30s to 45s for ordinary seamen.\(^4\) For nearly two years as surgeon on his second voyage Berry made £66 16s 8d.\(^5\) What made service with the East India Company attractive and profitable and drew the best of officers and seamen was allowance to crew members of space for free carriage of goods in both directions.\(^6\)

According to Berry officers and surgeons were all traders

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3 For example, both Berry's mate on the Lord Hawkesbury and his successor as surgeon deserted: *Lord Hawkesbury 1804-1806*, Receipt Book (IOLR L/Mar/B/3230), 4; Log of the *Lord Hawkesbury 1807-1808* (IOLR/L/Mar/B/323H).

4 Rules and Regulations established by the Court of Directors of the United East India Company, for the Shipping of Goods in Private Trade, 23 December 1794, appendix to Hardy, *op.cit.*, 68-83.

5 *Lord Hawkesbury 1804-1806*, Receipt Book, 3.

6 Rules and Regulations ... 23 December 1794, appendix to Hardy, *op.cit.*
and 'generally speaking, they all became mercantile men'.

Despite the prominence of Scots amongst British traders the Scottish landed and professional classes still looked with some disdain upon trade. On his voyage to China and back aboard the *David Scott* from 14 February 1802 to 24 April 1803 Berry did not utilise his freight rights, explaining that 'I was too fastidious regarding the dignity of my profession as a medical man to touch trade at that time'. On his return Berry was made surgeon on the 803 ton *Lord Hawkesbury* and served on a voyage to India from 16 June 1804 to 5 April 1806. He had come to see that he could not afford his scruples. His success in life must depend upon seizing the chance to make money through trade. He must debase himself for the chance to rise. Berry took a 'considerable investment' to India and sold it to 'good advantage'. The profit provided the stake from which he built his fortune.

At the commencement of the voyage Berry was still an

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7 Alexander Berry, *Passages in the Life of a Nonagenarian. Being a Series of Autobiographical Notices Written by the Late Mr Alexander Berry when he was upwards of Ninety Years of Age*, Chap. I. (published serially in *St Andrews Citizen* 1874 and taken from a book of clippings in the St Andrews Collection, St Andrews University Library).

8 See Charles Camic, *Experience and Enlightenment: Socialization for Cultural Change in Eighteenth-Century Scotland*, Edinburgh 1983, 79, for the 'grave reservations' of the great figures of the Scottish Enlightenment about the 'commercial' society developing about them.

9 A. Berry, *Voyage to China 1802-3*, BP. For identification of the ship's officers see Hardy, *Register*, 217.

10 Berry, *op.cit.*, Chap. I.

11 Log of the *Lord Hawkesbury* 1804-1806 (IOLR L/Mar/B/323G).

12 Berry, *op.cit.*, Chap. I.

13 Ibid.
enthusiast for his profession. He had heard of ships making the trip to India and back without loss of life and was determined to add his ship to the list. On the outwards voyage he landed three more passengers, because of births on the way, than the ship took on at Portsmouth and no deaths had occurred amongst the crew to the end of ten months spent in Indian waters. The return voyage from Madras was a very different matter. There sixty-three officers and men of the 74th Regiment of Foot were embarked, they being the remnant of the unit cut up at the battle of Assaye. The young surgeon suffered increasing depression as the ship's log became a catalogue of deaths and burials at sea. Despite his best efforts three officers and ten other ranks, one passenger and one crew member, a total of fifteen persons, died. There seems also to have been an epidemic aboard. In addition Berry found floggings, constant on the outwards voyage, very disagreeable. He was required to attend, for

I was responsible that the men so punished were not flogged to death. I made it a sort of rule for my own guidance that the poor fellows, at the worst, should never have more than one half of the punishment to which they were sentenced.

Confronted on this voyage by the realities of contemporary medical practice and disgusted by his inability to relieve pain and suffering or avoid repeated encounters with death, Berry resolved to abandon his profession but keep to the sea as a merchant trading to foreign parts. In making this change the dominant factor was the money-making attractions of commerce. From 1807

14 The Copy of the Medical Journal Kept by Alex. Berry Surgeon of the Lord Hawkesbury East Indiaman, In a voyage to India From July 1st 1804 to 1805 during which Time she sailed from & returned to England, BP; Berry, op.cit., Chap. I.

15 Log of the Lord Hawkesbury 1804-1806; Medical Journal Kept by Alex. Berry.

16 Berry, op.cit., Chap.I.
until 1812 Berry served as surgeon of the ship on which he was supercargo and lost no one up to the time that the ship sank. He kept up his medical reading throughout life and frequently treated his servants and family; by supply of medicines and written instructions when not present. He lacked confidence in his ability as a healer and preferred members of his family to see other physicians.

In London Berry met up again with Francis Shortt, a couple of years older and originally from Annam, Dumfriesshire, whom he had known in 1796-1797 when both were medical students at Edinburgh. Since then they had progressed along similar paths. Shortt had gone into the Royal Navy, then served as surgeon on an East Indiaman and was on the point of abandoning medicine for a mercantile career. Berry agreed to enter into partnership with Shortt for a speculative shipment of goods to Cape Town.

At the beginning of the nineteenth century Britain's overseas and colonial trades were in their infancy. Overseas traders were frequently inexperienced and often engaged also in some other employment. They were usually short of capital and inclined to over extend themselves so the insolvency rate was high. Specialization was yet a rarity and merchants spread their risk by putting together very mixed cargoes of manufactures or produce which commercial intelligence, or mere hunch, led them to believe might find ready sale at a worthwhile mark-up. Such cargoes

17 Ibid.
18 Record of Shortt's marriage, Cape Archives A1939 1/1/1, cited in Peter Philip, British Residents at the Cape 1795-1819: Biographical Records of 4800 Pioneers, Cape Town 1981, 380; Australian, 2 Jan. 1829, Shortt's obituary.
19 Dr. J.T.D. Hall, Keeper of Special Collections, University of Edinburgh Library to B. Bridges 6/5/1982.
20 Australian, 2 Jan. 1829.
21 Berry, op. cit., Chap. I.
were usually financed in the main by manufacturers or
wholesalers allowing long credit at a maximum rate of
interest of five per cent per annum set by English law.\textsuperscript{22} A vital factor for the merchant wishing to stay in trade
was preservation of his credit rating. With this intact the
man of little capital had access to means of making his
fortune: hence the attraction of trade. With the profit on
his recent voyage as his deposit Berry was able to obtain
about £8,000 worth of goods from various London
suppliers.\textsuperscript{23} British manufacturers and wholesalers
frequently forwarded goods unsolicited to such venturers,
mostly on their own account for sale on commission. Such
consignments could be a source of embarrassment. After
Berry's departure from the Cape of Good Hope more goods, of
which he knew nothing, arrived on his account from two
suppliers. As no explanatory documentation came with them
they were sold on a glutted market for benefit of the
shippers. These consignments caused discontent on both
sides and complicated resolution of Berry's Cape trading
accounts.\textsuperscript{24}

Berry conceded that his decision to enter a business
relationship with Francis Shortt was taken against the
counsel of all his friends. Robert Freebairn, a man whose
friendship in business Berry valued,\textsuperscript{25} was so concerned
that he agreed to advance his goods on credit only after
extracting the most solemn promise from Berry that he would

\textsuperscript{22} These matters are all well illustrated in the
commercial records of Berry & Wollstonecraft, BP.

\textsuperscript{23} The Joint and Several Answers of Alexander Berry and
Edward Wollstonecraft the Defendants to the Bill of
Complaint of Francis Shortt Complainant 24/5/1823, in
Supreme Court of Civil Jurisdiction Equity Proceedings
1817-24 (NSWA Map cabinets), Shortt v Berry &
Wollstonecraft [hereafter cited as Papers, Shortt's
Case].

\textsuperscript{24} Berry, 'Matter of Freebairn', n.d., BP.

\textsuperscript{25} Berry to Richard Battley 16/1/1809, copy, Papers, Shortt's Case.
never enter into partnership with Shortt. Freebairn felt
that Berry brought his misfortunes at the hands of Shortt
upon himself by dishonourably breaching his undertaking.26
Berry agreed to take space on the brig *Fly*, chartered by
Shortt, to transport himself and the bulk of his investment
to Cape Town.27 Beyond this the nature of his arrangement
with Shortt is unclear. In accounts written later Berry
said in one place that 'it was my firm determination that
all further connection should cease on my arrival at the
Cape',28 elsewhere that he was not induced to enter into
partnership for disposal of their goods until arrival in
Cape Town,29 and yet again, on oath, that there never was a
partnership in those goods.30

When visiting Sydney as surgeon on a convict transport
in 1803 Shortt had become acquainted with emancipist
merchant Simeon Lord.31 It was apparently from Lord that he
received news in Cape Town of the great want of provisions
in New South Wales following the Hawkesbury flood of
1806.32 Shortt and Berry, having sold many of their goods33
agreed to purchase a 526 ton prize ship, which they re-
named *City of Endinburgh*, to take stores to New South Wales

26 Freebairn to E. Wollstonecraft 9/3/1817, BP.
27 Bill. Francis Shortt v Alexander Berry and Edward
Wollstonecraft 21/2/1823, Papers, Shortt's Case;
'Berry in the matter of Freebairn', c 1816-1817, BP.
28 Berry, undated fragment, BP.[ Apparently written after
Shortt began an equity suit against Berry in Sydney in
1822].
29 'Berry in the matter of Freebairn', BP.
30 The Joint and Several Answers of Alexander Berry and
Edward Wollstonecraft 24/5/1823, Papers, Shortt's
Case.
31 John Apsey's Examination 22/10/1825, Papers, Shortt's
Case.
32 Berry, *op.cit.*
33 'Berry in the Matter of Freebairn', BP.
under Berry's direction. According to Shorttt he and Berry entered into verbal agreement on 17 April 1807, two days after their arrival at Cape Town, to form a copartnership firm under the name Shorttt & Berry. The partnership was general with profits and losses to be shared in proportion to initial investment in the form of cash and stock-in-trade, and him very much the senior partner with an input of £18,412 8s 0½d to Berry's £7,811 9s 8d. Berry disputed this. According to him an equal partnership was entered into about a month later. It was not of a general nature or for an unlimited period and did not at any time include goods he had imported. It was limited to the City of Edinburgh and its cargo. He did not believe that Shorttt, who was given to great exaggeration concerning the value of his property, had anything like the amount which he claimed.

Each man acted from the outset according to his claimed understanding of the extent of the partnership. At the time of arrival in Cape Town Shorttt was considered a man of property and allowed considerable credit. After Berry's departure he pushed ahead purchasing further ships and cargoes in the name of Shorttt & Berry. The firm's

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34 Bill. Shorttt v Berry and Wollstonecraft 21/2/1823, Papers, Shorttt's Case; SG, 6 April 1827.
35 Shorttt, Affidavit 20/2/1823, Bill. Shorttt v Berry and Wollstonecraft 21/2/1823, Papers, Shorttt's Case.
36 The Joint and Several Answers of Alexander Berry and Edward Wollstonecraft 24/5/1823, Papers, Shorttt's Case. Berry was not able to be as precise as Shorttt because he had lost all his papers at sea in 1812.
37 Shorttt's activities at Cape Town, not relevant in any detail for this thesis, have been followed through papers relating to him in the Cape Archives; issues of the Cape Town Gazette; Philip, op.cit.; various papers for Shorttt's Case (NSWA) and two articles by Marcus Arkin, 'John Company at the Cape: a history of the agency under Pringle (1794-1815), based on a study of the "Cape of Good Hope factory records"', Archives Year Book for South African History, 1960, v II and 'Supplies for Napoleon's gaolers: John Company and the Cape - St.Helena trade during the captivity, 1815-
name figures prominently in the East India Company Agency's records among the handful of licenced traders conducting the Cape Colony's external trade. As a result of over-reaching himself financially and various criminal acts by the master and part-owner of a vessel he chartered, Shortt was bankrupted. Berry insisted that Shortt had no authority to purchase ships or cargoes in their joint names and that Shortt's acts were without legal effect as they related to himself. During the voyage of the City of Edinburgh Berry acted on his own behalf and in his own name in matters not concerned with the ship and its cargo. He reported the sinking of the ship to Shortt and considered the partnership terminated by that event. In 1814 Berry's London agent, Richard Battley, referred in a business letter to Shortt as Berry's 'late partner'. Berry's lack of experience showed in his entering into so serious an arrangement with anyone by mere verbal agreement. In light of warnings he acknowledged having received concerning Shortt he was doubly foolish.

The City of Edinburgh sailed from the Cape on 4 September 1807. It was Berry's intention to return from

1821', Archives Year Book for South African History, 1961, v I.

Arkin, 'John Company at the Cape', 218.

[Undecipherable] & T. Sandendergh to Col. Sec. 28/7/1814, (Cape Archives CO 58 No. 43); Memorial of Francis Shortt for Shortt and Berry 24/11/1823, No. 71, CSIL, Bundle 19 No. 36-77, 1823 (NSWA 4/1765), 218-220.

'Berry in the Matter of Freebairn', fragment copy or draft letter Berry to Shortt, undated fragment re relations with Shortt, BP; The Joint and Several Answers of Alexander Berry and Edward Wollstonecraft, Papers, Shortt's Case.

Berry's detailed narratives of the voyage of the City of Edinburgh, BP.

Richard Battley to Rev. S. Marsden and E.S.Hall 25/6/1814, Piper Papers, v I (ML A254).
Sydney immediately with a cargo of timber. He was forced to alter his destination a number of times and to spend long periods on extensive repairs before the ship foundered just south of the Azores in the Atlantic on 6 April 1812. Judging by his subsequent references to them these years constituted the high point of Berry's life. He was in his prime, passing from ages twenty-five to thirty, and experienced many exciting adventures from a position of leadership. Although a master had been engaged Berry was himself a competent navigator. His various narratives of the voyage depict him as in command, being applied to by the master for decisions on sailing the ship as on other matters.

The *City of Edinburgh* venture involved a very considerable investment. How much was a matter of unresolved dispute between the partners. Berry left the Cape believing the ship and cargo were insured for £18,000, which he estimated as comprising £6,000 for the ship and £12,000 for the cargo. At Hobart salted beef was found to have dehydrated badly, suffering besides a decline in quality a one-third weight loss involving considerable reduction in the value of a commodity sold by weight. The quantities of wine and spirits were then found to be considerably less than allegedly supplied and loaded.

As a result of the master's incompetence he had navigated the *Fly* to Cape Town: Berry, *op. cit.*, Chap. I. Subsequently he frequently had a hand in the navigation of vessels with which he was associated and has been described on occasion, especially by later writers, as 'Captain' Berry. See for example chapter head summaries in *Passages*.

Narratives of the voyage of the *City of Edinburgh*, BP.

'Berry in the matter of Freebairn', n.d., BP. After the ship was repaired in Sydney in 1808 Berry put its 'lowest valuation' at £10,000 and Simeon Lord testified that it was worth £8,000 to £10,000: Berry to Battley 6/1/1809, Shortt v Berry & anor. Minutes of Evidence 4/11/1828: Lord, Papers, Shortt's Case.

Nevertheless Berry landed in Sydney about twenty-two thousand gallons of wine and spirits: a quantity which Governor Bligh quite reasonably described as 'enormous'.

Some have seen inconsistency in the fact that Berry, a 'dour teetotaller' and temperance advocate with a lifelong detestation of drunkenness, should be responsible for bringing such a large quantity of intoxicants to the Colony, implying that in a conflict between principle and the prospect of enormous profit greed triumphed. This is to misunderstand the man and his formative milieu. Calvinism taught that morality and decent behaviour cannot be imposed. They are essentially matters for individual responsibility. In accordance with the prevailing Scots' viewpoint Berry never opposed availability of intoxicants but only abuse of them.

Berry arrived in Sydney intending to sell the cargo himself but after a hostile reception from irascible Governor Bligh decided he needed a witness to the correctness of his conduct and bowed to Shortt's expressed wish that he consign the cargo to Simeon Lord. The relationship with Lord was to cause Berry many difficulties and serious loss. In the closing stages of his life he wrote apologetically concerning his selection of an agent that 'in those days there was hardly any choice', but there is no contemporary evidence of reluctance to employ Lord.

Shortt thought 'the cargo came to a fair mark' with

47 Bligh to Castlereagh 30/4/1808, HRA, v VI, 424.
50 Berry, op.cit., Chap. II; The Joint and Several Answers of Alexander Berry and Edward Wollstonecraft 24/5/1823, Papers, Shortt's Case.
51 Berry, op.cit., Chap. II.
52 Shortt to Simeon Lord 12/10/1809, Papers, Shortt's Case.
total sales at Port Dalrymple, Hobart and Sydney of £24,471,\textsuperscript{53} excluding an equivalent for about £300 worth of repairs to the ship at Hobart.\textsuperscript{54} Commodities with a prime cost of £4,452 12s 4d sold by Lord in Sydney returned £15,003 16s 0\textsuperscript{1/2}d after deduction of Lord's five per cent commission or a profit of £10,551 3s 8\textsuperscript{5/8}d before the deduction of ship costs.\textsuperscript{55}

There were too few labourers for hire to cut in reasonable time the intended cargo of timber for the return voyage to Cape Town. The local Government was looking for means of removing settlers from Norfolk Island to the Derwent without cost to the British Treasury. Berry conceived the idea for a charter\textsuperscript{56} whereby the \textit{City of Edinburgh} was employed on this service, earning at the agreed rate £3,600 to be paid in convict-sawn timber, mostly cedar, according to a schedule. A new Acting Governor, Lt.-Colonel Joseph Foveaux, refused to make payment in terms of the charter and referred Berry to the Colonial Office for adjustment of his claim.\textsuperscript{57} The better

\begin{itemize}
\item \textsuperscript{53} Shortt v Berry & anor. Minutes of Evidence 4/12/1828 : Berry, Papers, Shortt's Case.
\item \textsuperscript{54} Sales at Port Dalrymple, Shorttt v Berry & anor. Minutes of Evidence 6/11/1828 : Berry, Papers, Shortt's Case.
\item \textsuperscript{55} Alexander Berry, Credits with Simeon Lord, Abstract of Goods &c. City of Edinburgh, sold by Simeon Lord, Papers, Shortt's Case.
\item \textsuperscript{56} Cf E.Wollstonecraft, Memorial to Lord Bathurst [13/2/1815], CO 201/78, 99, represented the contract as entered into under duress, with Acting Governor Johnston insisting on the charter of the ship before he would give permission for timber to be loaded.
\item \textsuperscript{57} Alexander Berry, 'Passage from the Cape of Good Hope To Port Dalrymple in Van Dieman's [sic] Land [1807]? (internally re-titled), BP, 23,48-49; 61-65, Berry, \textit{op.cit.}, Chap. III; Johnston to Castlereagh 12/4/1808, encl. Charter Party of the ship \textit{City of Edinburgh}, \textit{HRA}, v VI, 409, 416-418; Johnston to J.Piper 24/5/1808, William Bligh & others Letters 1803 -1810 (ML Safe 1/51), 133-137; Foveaux to Castlereagh 20/2/1809, \textit{HRA}, v VII, 4-5.
\end{itemize}
part of ten years were to elapse before the Colonial Office decided to pay in full.\textsuperscript{58} Having failed to secure the promised return cargo Berry would have preferred to sell the ship but it was not possible to do so in Sydney.\textsuperscript{59}

From departure of the \emph{City of Edinburgh} from Sydney for the last time on 26 January 1809 until it foundered more than three years later it made next to nothing. After arrival in a very battered state in Lima, Peru $Sp.7,517 was raised by the sale of sandalwood and spars\textsuperscript{60} collected in the Pacific. Berry was obliged to borrow progressively nearly $40,000 from merchant Don Joaquin de Ferrer, whom he made the ship's agent, to pay for repairs\textsuperscript{61} and to consign the remainder of his cargo of spars as security for the loan.\textsuperscript{62} A cargo from Lima intended for Cadiz was lost with the ship. Despite the disastrous conclusion to the voyage, insurance allowed Ferrer's claim for the loan and cargo to be settled in full but this and the high premium coupled with an enormous rise against sterling in the exchange rate absorbed almost all of the payout\textsuperscript{63} leaving Shortt & Berry nothing for loss of their ship.

Berry remained in Cadiz from 1812 to 1815, first to arrange affairs with the consignees of the lost cargo\textsuperscript{64} and

\begin{itemize}
\item[58] The Joint and Several Answers of Alexander Berry and Edward Wollstonecraft 24/5/1823, Papers, Shortt's Case.
\item[59] Berry, 'Passage from the Cape of Good Hope.', 66-68; Berry to Battley 16/1/1809, Papers, Shortt's Case.
\item[60] D.R.Hainsworth, \emph{The Sydney Traders : Simeon Lord and his contemporaries 1788 - 1821}, North Melbourne 1971, 121.
\item[61] The Joint and Several Answers of Alexander Berry and Edward Wollstonecraft 24/5/1823, Papers, Shortt's Case.
\item[62] Affidavit of Don Joaquin de Toledo 24/12/1813, Papers, Shortt's Case.
\item[63] Berry, \textit{op.cit.}, Chap. IX.
\item[64] E.Wollstonecraft, \textit{Memorial to Lord Bathurst [13/2/1815]}, CO 201/78, 100.
\end{itemize}
then in hope of receiving an account of the spars left in Lima. Ferrer thought it unaccountable that Berry did not bother to acknowledge a letter from him dated 27 February 1813 although it contained a number of important documents and that he did not enquire concerning his affairs although he knew Ferrer was still in Lima. Long periods of inaction concerning his affairs will be seen to be characteristic of Berry. The bulk of the spars proved unsaleable and early in 1817 Berry finally gave orders for their abandonment. At the end of his long wait he received only $3,054.

For the last leg of his journey to Cadiz after the sinking of the City of Edinburgh Berry went on board the Spanish vessel Confianza at Lisbon. Soon after he embarked he was followed aboard by a tall, formal-looking young man dressed, as was his wont, in black. This was Edward Wollstonecraft. Berry was told by another passenger that Wollstonecraft had worked for many years in the office of Fermin de Tasted, a Spanish merchant in a large way in London. It so happened that it was to de Tasted's Cadiz agent that the City of Edinburgh's cargo had been consigned so Berry went to speak to Wollstonecraft.

Early in 1812 Wollstonecraft had embarked on the Confianza at Portsmouth with goods which he hoped would prove the foundation for a fortune by sale at Buenos Ayres. Although he believed he had obtained all necessary approvals from the Spanish Government before leaving Britain his property was virtually confiscated at Cadiz where the authorities alleged his voyage was illegal. Argument over detention of his property kept Wollstonecraft

65 Berry, op.cit., Chap. IX.

66 Ferrer to Berry 27/7/1816 & 30/1/1817, Papers, Shortt's Case; Berry, op.cit., Chap. IX.

67 In Berry's ms narratives this name seems clear enough but in published versions of his reminiscences became De Zastel.
Source: Adaptation from Claire Tomalin, *The Life and Death of Mary Wollstonecraft*, London 1974, family tree between 292 & 293.
in Cadiz until late in 1812\(^68\) when he decided to give up and return to London. Berry and Wollstonecraft took lodgings in the same *posada* and their relationship ripened into friendship. On 28 November 1812 Berry went to the British consul's office where, describing himself as a merchant of London, he executed a deed appointing Wollstonecraft his agent 'to act in concord and concert' with Battley.\(^69\) To Wollstonecraft's lot fell most of the work of Berry's affairs, even after Berry's return to London.

The financial wash-up of the *City of Edinburgh* venture continued in England until at least 1818 and in New South Wales until 1830. Berry was hampered by loss of every scrap of paper relating to the voyage in his possession when the box containing his documents was inadvertently jettisoned to help lighten his small boat after the ship foundered. He suffered further inconvenience when in 1815 he again lost all his papers after an American privateer captured the ship on which he was returning to England.\(^70\) Despite the voluminous nature of surviving papers there are sufficient gaps to render drawing up any balance sheet impossible, although a broad picture of the outcome is available.

Berry found that he had fallen amongst rogues and thieves on all sides.

Both Francis Shortt Jr and Simeon Lord were treacherous individuals given to dishonourable acts for personal advantage. Shortt's readiness to resort to deceit, 


\(^69\) Power of Attorney, Berry to Wollstonecraft 28/11/1812, Papers, Shortt's Case.

\(^70\) Alexander Berry, 'Account of the destruction of the ship "Boyd" and massacre of the Captain and crew by the Natives of Wangaroa, New Zealand' (NLA MS91), 30-31; Berry, *op.cit.*, Chap. IX
giving of false undertakings and sabotage of a man, Captain James Birnie, who considered himself Shortt's friend is demonstrated in letters he wrote to Lord & Williams and to Berry in 1810 and 1811.\textsuperscript{71} Governor Bligh reported that Lord had ruined the masters of several ships and defrauded merchants in England of 'a serious amount'.\textsuperscript{72} and in 1820 Judge Field was to testify on the basis on some years' experience of him as a litigant that 'he appears to be a person who never would pay any body if he could help it, and wd. take every advantage as a Tradesman'.\textsuperscript{73}

Early in 1809 Berry, in buoyant mood, forwarded to Shortt on account of sales from the City of Edinburgh Treasury bills to the value of £7,412 19s. He left with Lord, to be sent first opportunity, a packet directed to Richard Battley containing bills of exchange and insurance claims to the value of £16,183 18s 4d for payment of his liabilities, the balance to go to Shortt.\textsuperscript{74} This packet never reached Battley.\textsuperscript{75}

After receiving duplicate documents sent by Berry from Lima Battley approached the Transport Board for payment of the Norfolk Island freight, only to find that £2,000 had already been paid to Francis Shortt Sr as agent for Shortt & Berry and that Shortt Sr had represented his son as sole owner of the ship with Berry merely the supercargo. Shortt Sr kept the whole of the money in liquidation of a bonded

\textsuperscript{71} Shortt to Lord & Williams 21/12/1810 & 13/6/1811, Papers, Shortt's Case; Shortt to Berry 2/3/1811, Berry, Papers concerning partnership with Shortt, Norton Smith Papers (ML A5375-2), No 59, 17.

\textsuperscript{72} Bligh to Windham 31/10/1807, HRA, v VI, 149.

\textsuperscript{73} Examination of Field by Commissioner Bigge, HRA, Ser. IV, v I, 780.

\textsuperscript{74} Berry to Battley 16/1/1809, Papers, Shortt's Case; Wollstonecraft, Memorial to Lord Bathurst [13/2/1815], CO 201/78, 99; Berry, \textit{op.cit.}, Chap. IX.

\textsuperscript{75} A.Berry, 'Observations on Shortt[']s letter to Berry dated 14\textsuperscript{th} Augt. 1810', Berry, Papers concerning partnership with Shortt, Norton Smith Papers, No 59, 59.
debt for the same amount owed him by Francis Shortt Jr. Berry insisted that he would never have agreed to Shortt Jr appointing his father as their agent because he knew of the debt and had heard a story of the father abusing his powers as Sheriff Depute to protect his son from a creditor. The documents needed for Shortt's application to the Transport Board came from the missing packet addressed to Battley. The only ways that Berry could account for their being in Shortt's possession were that Lord had opened the packet and sent the contents to Shortt Jr or that he had sent the packet unopened to Shortt at Cape Town for forwarding and that Shortt had retained it. Any doubt that Shortt had come into possession of Berry's letter was removed years later when Shortt tendered the original in legal proceedings. After much difficulty Berry finally succeeded in 1818 in obtaining a second and final payment of £1,916 on account of the Norfolk Island freight.

When Berry learned soon after his return to Britain of proceedings concerning the Norfolk Island freight he determined never to have further dealings with Francis Shortt Jr. In adhering to this Berry put himself in the wrong. Whatever the defects in Shortt's character and conduct he had a right to a proper accounting for his investment and orderly winding up of the affairs of Shortt & Berry.

The matter of the Norfolk Island freight also caused Berry to lose all faith in Battley whose account of his delays in acting seemed designed to hide either negligence or conniving at Shortt Sr getting all the money. Berry had

76 Statement of Berry's Case, Summary of events 1807-12 etc, Berry, 'Matter of Freebairn', BP; Shortt v Berry & anor. Minutes of Evidence 6/11/1828, Papers, Shortt's Case.
77 Berry, 'Observations on Shortt[']s letter to Berry dated 14th Augt. 1810', Norton Smith Papers, No. 59, 59; Shortt v Berry & anor. Minutes of Evidence, Papers, Shortt's Case.
78 Statement of Berry's Case, Summary of events 1807-12 etc, BP.
to go to other sources to piece together the real course of events. On 26 July 1816 he annulled Battley's appointment as his agent. 79

The packet for Battley left with Lord was in fact opened by Lord, for he did not forward to Shortt a set of his own bills of exchange which were amongst the enclosures. Because of the hazards of the sea bills of exchange payable overseas were issued in triplicate with payment made on the first copy presented. Lord retained the set for Battley to increase his chances of avoiding payment and may well have succeeded with a little luck. Another set of his bills were on the Boyd which was sacked and destroyed by Maoris in New Zealand, the third set was lost with Berry's other papers after the City of Edinburgh sank. Shortt, unaware of the identity of the drawer contacted Lord seeking without success to get a notarised copy of the bills into his own hands. When he learned by a letter from Berry that Lord himself was the drawer he became concerned about extracting payment. 80 In January 1812 Shortt sent John Hendrick Stadler from Cape Town 81 and on the argument that all copies of the bills were irrecoverably lost Stadler secured a conditional verdict for the amount of Lord's bills as a book debt to Shortt & Berry. When, much later, Berry heard of this he could not conceive how Shortt could argue that all sets were lost unless he had the set addressed to Battley. 82 Because Lord had obviously sent papers concerning the Norfolk Island freight on to Shortt it did not occur to him that Lord could be so duplicitous.

79 Statement of Berry's Case, 'Matter of Freebairn', Loane and Hall v Berry, Court of Appeals Case Papers July 1822 to April 1824 (NSWA X1987), 15


81 Shortt, Affidavit 20/2/1823, Papers, Shortt's Case.

as also to be acting contrary to Shortt's interest. Neither Lord nor Shortt knew that Berry had recovered from the Maoris the bills sent on the Boyd and forwarded them to Battley from Lima.83

Lord's payments to Berry included £7,600 in his bills on his London agents. They declined to accept or pay them.84 After the first of these bills, for £6,330, was refused Battley in August 1811 sent a power of attorney to the Rev. Samuel Marsden and Edward Smith Hall 'jointly and severally' to collect the amount with interest.85 Armed with the dishonoured bills they were able to have the conditional verdict set aside.86 In the first six months of 1813 Marsden and Hall had to defend actions brought by convict attorney George Crossley as agent for Stadler for recovery of the amount of the bills sent by Battley.87 Berry was informed that when frustrated in court Stadler offered to compromise with Lord for £2,000,88 but the accuracy of this report is uncertain. On his return to Cape Town Stadler reported that he could gain nothing for his employer and that the very existence of the firm Shortt & Berry was questioned in New South Wales.89 In 1816 when Berry appointed new agents in New South Wales he instructed

83 Berry, op.cit., Chap. IX.
84 Wollstonecraft, Memorial to Lord Bathurst [13/2/1815], CO 201/78, 99.
85 Power of attorney, Battley to Hall and Marsden 7/8/1811, Court of Appeals Case Papers, 91-94.
86 Statement of Berry's Case, BP; Yarwood, op.cit., 145.
87 Marsden and Hall to Battley 28/6/1813 & 26/9/1814, Court of Appeals Case Papers, 63, 67.
88 The Joint and Several Answers of Alexander Berry and Edward Wollstonecraft 24/5/1823, Papers, Shortt's Case.
89 Shortt, Affidavit 20/2/1822, Papers, Shortt's Case. In consequence of this Shortt in 1822 armed himself with numerous affidavits as to the existence and operation of Shortt & Berry in Cape Town for his action Shortt v Berry & Wollstonecraft. See Papers, Shortt's Case.
them to pay nothing to Shortt or any alleged creditor of
his as he had 'long ago received more than his due
proportion of the proceeds of the Edinburgh'.\textsuperscript{90}

On 15 September 1812 Marsden and Hall reached a
compromise with Lord whereby he gave bonds jointly with
merchant-pastoralist brothers John and Gregory Blaxland to
pay £5,200, leaving the remaining £2,400 of Lord's debt for
future discussion. The Blaxlands who owed Lord £4,000, now
assigned to Berry, gave a mortgage on cattle as security.\textsuperscript{91}

When they defaulted on their first installment Berry's
agents took possession of 381 head. Of these, 131 head were
sold to Rowland Walpole Loane, 'a Respectable and opulent
Merchant of the Colony' for £1,375 10s in bills payable on
1 September of 1814, 1815 and 1816.\textsuperscript{92} Battley considered
the terms of this sale very objectionable, in part because
the price seemed much below the value of the cattle. His
letters to the agents reveal a generally unfavourable
opinion of their efforts.\textsuperscript{93} He did not know the worst of
the situation. Marsden did not want to be bothered with the
agency but thought the commission might be of some service
to Hall, a man with a young family. He took advantage of
the terms of the power of attorney allowing them to act
individually to arrange that Hall would transact all
Berry's business in their joint names and receive all the

\textsuperscript{90} Berry to Broughton 11/8/1816, Piper Papers, v I, 287-
288.

\textsuperscript{91} Marsden and Hall to Battley 26/9/1814, Court of
Appeals Case Papers, 66; Battley to Marsden and Hall
25/6/1814, Piper Papers, v I, 291-292; Marsden and
Hall, agents of Alexander Berry, Account current 15
Sep. 1812 to 15 Sep. 1814 (ML Ab 69/3);
Wollstonecraft, Memorial to Lord Bathurst [13/2/1815],
CO 201/78, 99; Statement of Berry's Case, BP;
Affidavit of Simeon Lord 14/3/1823, Papers, Shortt's
Case.

\textsuperscript{92} Marsden and Hall to Battley 26/9/1814, Receipt for
Blaxland's cattle 5/1/1814, Receipt Marsden and Hall
to Loane 5/3/1814, Court of Appeals Case Papers, 64,
66-68.

\textsuperscript{93} Battley to Marsden and Hall 25/5/1815, 1/7/1815 &
29/1/1816, Piper Papers, v I, 293-299.
advantages. Secondly, Hall had become Loane's business partner. Changes were made in the terms of that partnership at the time of the sale to Loane which Berry was to see as evidence of intent to defraud him. A scrupulous agent might consider himself morally bound to inform Battley of the agreements with Marsden and Loane, but Hall said nothing.

Battley urged Marsden and Hall to recover money owed by Lord by sale of his property under execution. Against a man like Lord who evaded payment every means to enforce payment had to be used. Hall ignored these instructions. Twice letters to Battley were sent under cover to other individuals and not delivered until four months after arrival in London. There was an inference available that this was done to give the appearance of attention to Berry's affairs while ensuring delay. On 26 July 1816 Berry revoked the deed of substitution given by Battley to Marsden and Hall and appointed William Broughton and John Piper as his agents.

Loane and Hall chose to speculate with funds in their hands rather than pay Berry. On 1 September 1816 two bills which fell due were left unpaid. Hall as acceptor consented to judgement for £597 2s, but as he became insolvent Broughton and Piper did not take out an execution against him. Loane returned to Sydney from Hobart in 1818. An action then taken against him failed when Berry was non-
suited from inability to prove that Loane had been given regular notice of dishonouring of the bills by Hall. Thereafter neither Hall nor Loane made any attempt to pay anything and after Berry's arrival in Sydney in the latter part of 1819 absolutely refused applications from him or his solicitor. Berry commenced an equity action against Loane and Hall alleging conspiracy to defraud which resulted in December 1820 in his being awarded the amount of the bills, interest and costs totalling £777 10s 3d. An appeal by Loane was dismissed with costs and in January 1823 Berry was finally paid £stg1,150.

Berry found that Broughton and Piper had not been able to obtain payment from Marsden and Hall of any money collected on his behalf. He sued Marsden and Hall in equity for recovery of £7,683 10s 7d on account of Lord's debt with interest, alleging in his complaint that the prime sum of £5,221 2s 1ld had been received on his behalf but retained by his agents 'and speculated with and appropriated to their own use and advantage jointly for a period of upwards of eight years'. The purpose of this action was to obtain judgment against the former agents jointly so as to recover from Marsden, who was prosperous, the sum actually received. In the event the court found for Berry against Hall for the amount he had received, and lost in failed business ventures, but ruled that Marsden could not be held liable, whatever might have been the verdict in

99 Ibid., 1-39.
101 Court of Civil Jurisdiction Appeal Court Proceedings [Governor's Court] (NSWA 4/6604), 71, 7/8/1822, 77-78, 16/8/1822; Loane and Hall v Berry, Court of Appeals Case Papers, 103-109, 187-223, 263-265.
102 Affidavit of John Dixon 14/3/1823, Papers, Shortt's Case.
103 Berry v Marsden and Hall, Court of Appeals Case Papers, 57.
a case brought for neglect. An appeal against the decision so far as it related to Marsden was rejected. In early 1822 Hall's house and four hundred head of cattle were put up for sale for satisfaction of Berry's and another judgement. The balance of £89 9s 6d was paid to Berry in bills upon a Sydney merchant. The records give no indication of how much in total Berry was able to recover from Hall.

At the time of the 1812 compromise Simeon Lord gave five bills of exchange in settlement of the remaining £1,200 of the undisputed part of his debt. Over a decade later there was still unpaid one bill for £240, parts of two other bills for the same sum and the considerable interest on this debt of so many years' standing. In January 1825 Berry obtained judgment for recovery on another bill of Lord's of 1809 for £1,000, but without interest or costs. These were debts to Shortt & Berry. Shortt, who was at the time engaged in litigation against Berry and becoming increasingly indebted to Lord, denied Berry recovery of any of this money, required to give him anything like an equal share of the proceeds of the City of Edinburgh venture, by giving Lord a discharge for all debts to Shortt & Berry.

It was agreed at the outset that Berry would become personally liable for insurance of the City of Edinburgh and its cargo. This matter of insurance was also to cause

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104 Appeal Court Proceedings, 56, 28/11/1821, 61-64, 30/11/1821; Berry v Marsden and Hall. Appeal. Answer of Respondent Rev. Samuel Marsden, Court of Appeals Case Papers, 57-61, 81-88; Wollstonecraft to Berry 30/8/1820, BP.  
106 Affidavit of E.S.Hall 14/3/1823, Shortt's additional affidavit to ground an injunction 18/3/1823, Papers, Shortt's Case.  
him a series of problems. Shortt valued the ship and cargo together at £20,000; which Berry thought a considerable overstatement of real worth. He was prepared to concede Shortt that valuation but remonstrated with him on the impropriety of an attempt to insure for £28,000. Shortt affected to submit to Berry's reproof but after the ship sailed sent instructions to insure for £28,000108 thereby guaranteeing himself a handsome profit if the ship were lost. In allegedly affecting the insurance Freebairn departed materially from the instructions given, saddling Berry with a far higher premium. Berry argued that this departure from orders would justify him refusing any liability for the premium. Otherwise he argued that his claims under the policy for losses and other offsets would more than cover the premium. As neither Freebairn nor, after he became insolvent, his assignees would produce the policy and Freebairn had not attempted to recover from the underwriters on large claims for repairs Berry and Wollstonecraft came to the conclusion that it was probable that Freebairn was attempting to 'shake down' Berry for an exhorbitant premium on a non-existent policy.109 Surviving correspondence ends in December 1818 with the matter still unresolved. Shortt's uncle James Richardson claimed £632 in connection with a non-existent insurance policy. Berry and Wollstonecraft dismissed this as one of the more transparent attempts on the part of the Shortt connection

108 To add to the confusion Shortt testified in 1828, apparently falsely, that the ship and cargo were insured for only £16,000. Shortt v Berry & anor. Minutes of Evidence 2/12/1828, Papers, Shortt's Case.

to defraud him. Berry also experienced considerable difficulty over a period of years before collecting insurance for the ship's final voyage from Lima.

Thus in relation in some way to the *City of Edinburgh* speculation Berry was defrauded or cheated by Shortt, Lord, Freebairn, Richardson, Hall and Loane and was injured by the neglect or worse of his agents Battley and Marsden. Given this experience of business ethics it is small wonder that he continued to have little regard for the calling of merchant.

There is very little in the sources concerning the years from 1815 when Berry returned to London and went to live at Greenwich with Edward Wollstonecraft and his sister Elizabeth. In Spain Berry had suffered a life-threatening attack of yellow fever. He was still more an invalid than anything else when he arrived in England and for many years afterwards the least cold brought on a fierce headache. Nothing suggests that he had any set or gainful employment during these years of convalescence and attempts to resolve the financial problems of his voyage. It seems impossible that Berry recovered more than part of his investment in the *City of Edinburgh*. He must have lived on this.

In 1819, as he approached middle age, Berry was a failure. He had made only a pittance from the practice of his profession. As a merchant he had, for all his effort and endurance of privation and danger, gone backwards by

110 Richardson's Account with Shortt & Berry; Swain, Stevens, Maples & Pearse to Battley 27/3/1811, Statement of Berry's Case, Paper on debts to Richardson and Freebairn, BP.

111 Statement of Berry's Case, BP; Affidavit of Don Joaquin de Toledo 24/2/1813, Papers, Shortt's Case; Alexander Berry, 'Account of the destruction of the ship "Boyd" [etc]', 29.


113 Berry, *op.cit.*
losing his capital. His gain was in painfully acquired knowledge of the world. Experiences surrounding the voyage of the *City of Edinburgh* had taught him the folly of trusting in the integrity of others and that neither wealth nor power beyond the ordinary fall to those who scruple to use or exploit others.