Aspects of the career of Alexander Berry, 1781-1873

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Chapter 13

LOCAL GOVERNMENT AND ESTATE VILLAGES

Because Berry held that the landowner was the basis of society he wanted to preserve landowner patriarchy on the Scots model and was determined to do whatever he could to counter the emergence of democratic institutions and social relations in New South Wales. For the last thirty years of his life Berry struggled with all his might against introduction of local government. When he could not prevent municipal legislation he sought amendment to give more power to larger property owners. Where his personal interests were involved he strove to control incorporation to produce tame councils. So strong was Berry's antipathy to local government that he once refused to speak to a gentleman for some months 'simply because he had expressed himself in favour of municipal institutions'. At his death this hostility and his related opposition to 'parliamentary democracy' were the only things remembered as worthy of comment concerning his public life.

Local incorporation was, Berry said, a means of imposing a direct tax upon land and agricultural produce, the effects of which would be ruination of the great landed proprietors or at least rendering of survivors so uncomfortable they would wish to leave the country. Potential purchasers of land would be discouraged. He deemed it 'unconstitutional' to allow anyone a say in levying taxation on the produce of a district who had no interest in its land. A broad franchise was a device whereby the irresponsible and predatory masses were given power through control over rating to confiscate hard-won property. A modern municipality was the virtual incorporation of all real property within its limits into joint stock property, but unlike a joint stock company the

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1 SMH, 20 June 1860: LC 19/6/1860, Charles Cowper.
public at large had a say in management and shareholders might have no voice. If there had to be municipalities they should be like joint stock companies with voting rights proportioned to property holding. Other regular features of his opposition to local government was the practice of spending money raised in one locality in another some miles off, fear of members of local councils using them to pension poor relations at ratepayers' expense through securing them paid situations and the argument that an expensive local bureaucracy would consume funds better spent on works.3

There was much support amongst the landed gentry for Berry's views on taxation. The select committee on General Grievances in 1844 endorsed Berry's testimony, alleging that the colonists of New South Wales were subjected to a level of taxation unprecedented in per capita terms not only in British colonies but in the history of the world. This committee could 'never lend their sanction to any scheme of local taxation which shall tend to increase the already intolerable burden'.4 The Sydney Morning Herald asserted in 1865 that larger landowners opposed municipal institutions in New South Wales because they involved taxation without proportional representation. Arguments against property voting had no force because municipalities were constituted to deal with property.5

Berry said in 1844 that district councils were 'utterly unfitted for the colony, or to the circumstances

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3 Legislative Council, Report from the Select Committee on General Grievances, 6 Dec. 1844, 2-3, Berry's ev.; SMH, 26 July 1844: LC 25/7/1844; Legislative Assembly, Town and District of St. Leonards. (Correspondence respecting boundaries of.), Return, 16 June 1865, Appendix No. 2, 4. These considered statements of the grounds of Berry's opposition contain propositions put many times in other contexts.

4 Report from the Select Committee on General Grievances. (Printed in SMH, 13 Dec. 1844).

5 SMH, 8 May 1865, edl.
of any country whatever'⁶ and continued to argue as a second line of attack that local government was quite unnecessary in rural districts. All that were required were road trusts for construction and maintenance of roads.⁷ In Scotland, as Berry had known it, landowners had a statutory obligation to maintain churches and schools and accepted as a duty imposed by their privileged social and economic standing the making of other contributions to community welfare or taking a leading role in organising community action. He wanted to operate within this tradition from another place and another time, accepting responsibility but being free of direction or coercion to act when it might be inconvenient, obtaining certain other rights of decision, such as the course of roads, in consideration of his expenditure. Berry was without peer in New South Wales in expenditure on infrastructure development beneficial to his local community. This was for him an important part of the function of a landed gentry and he frequently said that neither he nor his brother David sought or would accept public money for works on Berry land.⁸ The proposition commonly put or hinted at that Berry's opposition to local government flowed from selfish determination to enjoy the rights of property without meeting its obligations⁹ was a misconception. Far better founded was the public resentment of Berry's undoubted selfishness in wishing to prevent a more equitable distribution of wealth and political decision-making and greater freedom of individual action.

By 1840 majority opinion considered the Colony at a

⁶ Report from the Select Committee on General Grievances, 2.

⁷ Berry to Robert Johnson MLC 6/11/1865, BP.

⁸ From 1857 onwards Berry began to demand compensation for land taken to make roads through his land which were imposed on him and which were of no personal benefit.

⁹ This was a regular theme in the IM's crusade against Berry; Report from the Select Committee on General Grievances, 3, q62; Gipps to Stanley 27/7/1844, HRA, v XXIII, 709; Weekly Register, 15 Feb. 1845.
fit state of development for introduction of municipal institutions. Such a move was necessary in relation to Sydney, given the Colonial Government's want of funds for such purposes as proper maintenance of roads. The Chief Justice advised that the Legislative Council had no power to create municipalities but Gipps introduced a Municipal Corporation Bill which if passed was to be forwarded to England as expression of the legislature's wishes. It was withdrawn when strong differences arose over whether ex-convicts should be eligible for election. Berry said he intended to vote against many clauses.10 Allied to this was a Police and Public Works Bill, which provided for commissioners elected by inhabitants of each police district to levy a rate from which police would be supported, with any surplus expended on roads and bridges. Some measure to provide for police had been made necessary by Imperial refusal to continue financing police and gaols but it quickly became apparent that nominee members, Berry included11, would not accept direct taxation for policing while it could be argued that police and gaols were needed principally to deal with Britain's transportees. Ultimately Gipps withdrew this Bill also. Berry described it as a Bill to promote squatting and prevent settling, thereby retarding agriculture.12

In July 1842 Sydney was declared a city and incorporated by the Sydney Corporation Act, 6 Vic. No.3. Berry professed to believe this Act's only benefit was that it allowed Sydney residents to act as their own scavengers. He said that he objected only to a clause providing for


maintenance of a police. In truth there was much about the Bill that he did not like. Berry was beginning to set himself apart even from other magnates in the Legislative Council by his forthrightness in defence of the rights of property and opposition to social levelling. He proposed voter and candidate property qualifications at twice the sums settled on and objected totally to a personal qualification, considering it unjust that a man who kept his money in his pocket should tax another who laid out his on buildings. He pressed his motion for a higher voter qualification to a division because a lower franchise 'would be approaching very nearly to universal suffrage, which he dreaded and disliked.' In America 'the licentiousness of the elective franchise' caused respectable people to shun elections. Certain members were prepared to encourage Berry in some of his viewpoints but no one else would commit himself to pronouncements so unpalatable to prospective voters for the partly-elective legislature.

Berry argued that police should remain under Government control and be paid for from general revenue, raised by indirect taxation. He secured recommittal of the police clause but instead of then moving that it be expunged, as his supporters expected, unaccountably moved that the city council be empowered to set a police levy not exceeding 2d in the £1. He had lost sight of the principle he had contended for. There was no seconder. 'But what', asked the Australian, 'can people expect, when they entrust a political matter of importance to such a very silly old man as Mr. Berry?' 13

The election of the city council on 1 November 1842 confirmed all Berry's worst fears. Amid scenes of drunken and riotous behaviour emancipists, chartists, publicans, 

13 V&PLC, 1842, 31, 30 June 1842, 39, 12 July 1842; Colonial Observer, 15 June 1842 : LC 10/6/1842 & 14/6/1842, 29 June 1842 : LC 28/6/1842, 6 July 1842 : LC 29/6/1842, 13 July 1842 : LC 8/7/1842; Australian, 1 July 1842 : LC 29/6/1842 & 30/6/1842, ed1 comment quoted; SH, 1 & 8 July 1842.
tradesmen and others not 'gentlemen most conspicuous for their wealth or station'\textsuperscript{14} swept into office by means of the low franchise. John Hosking, son-in-law of Samuel Terry, was elected mayor and a convict's daughter became the city's first lady.\textsuperscript{15} Within a few years the council proved to be the corrupt, inefficient and irresponsible body some conservative nominee Legislative Councillors had anticipated.\textsuperscript{16} After ten years the corporation was abolished as 'an impediment to the improvement of the city'.\textsuperscript{17}

Berry opposed another Police and Public Works Bill supplementing the Sydney Corporation Bill, arguing it was impracticable to give municipal institutions to country districts in present circumstances and that to enfranchising £20 householders would enable them to tax landholders without their consent and negate the principle of taxation by representation.\textsuperscript{18}

Sir George Gipps believed the great dispersal of population and multifarious calls on the central government for expenditure rendered it necessary in the one case and highly desirable in the other for institution of local government, although it might not be applicable for all districts. Inclusion of clauses in Lord Stanley's Constitution Act of 1842 devolving the important functions of schooling, provision of roads and bridges and, in part, police to district councils was widely believed in New South Wales - by Berry\textsuperscript{19} amongst others - to be

\begin{flushright}
\textsuperscript{14}Gipps to Stanley 27 /11/1842, HRA, v XXII, 376-377. \\
\textsuperscript{15}SMH, 2,10,22 & 29 Nov. 1842. \\
\textsuperscript{17}T.A.Coghlan, Labour and Industry in Australia : From the First Settlement in 1788 to the Establishment of the Commonwealth in 1901, London 1918, v I, 544. \\
\textsuperscript{18}Australian, 8 July 1842 : LC 5/7/1842. \\
\textsuperscript{19}SMH, 26 July 1844 : LC 25/7/1844; Berry to James Martin 12/2/1866, BP.
\end{flushright}
attributable to Gipps. Kelvin Grose has argued persuasively that the relevant clauses were, with exception of the provision relating to police, of Canadian origin and that although Gipps encouraged belief that he was responsible for their adoption this is most unlikely.

Sections 47 to 49 provided that district councils were to levy rates to cover half the cost of police and gaols, the other half to be met from the Colony's central revenue. Section 49, the 'Algerine Clause': so called because the Bey of Algiers was currently the epitome of oppression, provided that where a district council failed to pay its share the amount could be recovered by distress and sale of goods of the council treasurer, of any member the council, or even inhabitants of the district. No one was safe. These clauses aroused widespread hostility as unconstitutional and oppressive. The Legislative Council refused to vote its half of the cost.20 According to the Sydney Morning Herald the police issue was 'the grand crying grievance of the country'.21 Gipps reported to the Colonial Office that it was the cause of nearly all abuse of the Imperial Government and of himself.22 Berry was to say years later that Gipps, at one time a popular governor, entirely lost standing with the public and ruined his health by persistent attempts to introduce a ruinously expensive general system of municipalities.23

The press in general favoured local government but at this time many colonists shared Berry's fear of direct taxation and his belief in the inapplicability of local government to areas so thinly settled that districts equal in size to English counties would need to be


21 30 July 1844.

22 Gipps to Russell 17/7/1844, HRA, v XX, 712.

23 Berry to Robert Johnson 6/11/1865, Berry to James Martin 12/2/1866, BP.
incorporated. Bills for implementation of local government clauses of the Constitution Act came to grief in the Legislative Council. Governor FitzRoy reported in 1847 that these clauses were totally inoperative. In every debate on the issue Berry distinguished himself by the strength of his opposition to what he denounced as an iniquitous scheme for the confiscation of property and by his expression of anti-democratic sentiments. He had heard of 'publicans and pound keepers' being solicited to serve as councillors and asked 'how could such men have the real interests of the community at heart? Would they in any way regard the interests of the proprietors of land?' The Sydney Morning Herald reported that the greater part of one of his speeches could not be heard in the press gallery for the laughter of the members and found this not surprising, remarking ironically that it was 'a luminous display of ratiocination truly!'

During 1843 nominated district councils were appointed in preparation for introduction of an elective system. John Berry was given a seat on a council for the Illawarra which although it extended to the Shoalhaven had its headquarters

24 V&PLC, 1843 & 1844, petitions from various parts of the country; evidence in Report from the Select Committee on General Grievances, 1844; press reports in general of various debates on local government.

25 The Legislative Council resolved by 14 to 7 'That in the opinion of this Council, the District Councils are totally unsuited to the circumstances of the Colony ...': V&PLC, 1844, v I, 83-84, 25 July 1844. The Governor was asked to make representations for repeal of the local government clauses: ibid, 109-110, 9 Aug. 1844.

26 FitzRoy to Grey 1/4/1847, HRA, v XXV, 446.


28 SMH, 26 July 1844 : LC 25/7/1844.

29 Ibid., 27 July 1844.
at what Berry described nonsensically as 'the decayed and decaying village of Wollongong ... situated in a corner at the northern extremity'.\textsuperscript{30} Illawarra council very soon provided grounds for Berry's fears. While councillors were prohibited by law from holding any office of emolument there was no such defence against nepotism. The Osborne family, which had magisterial control of the district, had two members on the council which at its first meeting appointed their cousin surveyor and another of their relatives collector, while the post of treasurer went to the brother of another councillor. Berry told Colonial Secretary Thomson that he looked 'with great apprehension and alarm to the circumstance of all the property I possess being placed at the mercy of this family compact'.\textsuperscript{31}

Berry immediately organised a petition, presented to the Legislative Council on 30 November 1843,\textsuperscript{32} praying for creation of a separate council for the region from Gerringong southwards where he could expect to control a council and see to it that he was not rated for improvements of no benefit to himself or Shoalhaven residents.\textsuperscript{33} Gipps was not inclined to support the proposed change because from the high qualification for the office of councillor there was already 'great difficulty' finding sufficient qualified persons.\textsuperscript{34} In a long rejoinder Berry argued that Shoalhaven had no more community of interest with Wollongong than the latter place had with Parramatta yet it seemed to be handed over to the people of Wollongong as a source of funds to compensate for ending hitherto

\textsuperscript{30} Berry to Col. Sec. 24/4/1845 45/3849, CSIL, 1845 Miscellaneous Persons B (NSWA 4/2693.1).

\textsuperscript{31} Berry to Col. Sec. 13/12/1843 43/9181, CSIL, District Councils 1844 (NSWA 4/2642.2).

\textsuperscript{32} \textit{V&PLC}, 1843, 213, 30 Nov. 1843.

\textsuperscript{33} Berry to David Berry 14/12/1843, BP.

\textsuperscript{34} Minute on Berry to Col. Sec. 26/12/1843 43/9480, CSIL, District Councils 1844.
prodigal government spending there. He hoped that His Excellency would not oppose repeal of this 'ill assorted union' which 'could only be productive of injustice & oppression'. Any sense of urgency and later even of purpose was lost when it became obvious that local government was unacceptable to the legislature and district councils became moribund. David Berry also served for a time as a member of the Illawarra council. As late as April 1848 nominations were called for election to vacancies left by the resignations of the Berry brothers and Dr A.K. Mackenzie, another Shoalhaven identity.

In 1848 when James Macarthur stood for election to the Legislative Council for the County of Camden and solicited Berry's support Berry exacted an assurance that Macarthur would continue to oppose district councils 'as inapplicable to the state of the Colony & calculated to produce the most mischievous effects'.

By the late eighteen forties the population of Shoalhaven outside the Berry estate was sufficient to mount pressure for introduction of public services and erection of public buildings. In 1850 the site of Nowra was set aside for future development of a town for Shoalhaven.

For Berry development of rural towns was anathema. They seemed incompatible with continued control by a landed gentry. Towns meant incorporation and setting of rates whereby not-so-well-off townsmen mulcted the landowner of his cash and threatened his continued hold on his estate. Towns were also the scene of drunkenness, idleness, vice - and worse. Berry said once that 'I do not like men who are fond of Sydney' and throughout the whole of his time as

35 Berry to Col. Sec. 15/1/1844 44/368, CSIL, District Councils 1844.
36 Berry to A.K. Mackenzie 29/4/1848, BP.
37 James Macarthur to Berry 28/6/1848 & 11/7/1848, BP.
38 Berry to David Berry 11/1/1849, BP.
laird of Shoalhaven dictatorially tried to prevent his employees from visiting the capital even for a holiday, if possible imposing some penalty on those who did so.\textsuperscript{39} He derided country folk who sought incorporation of their district into some local government unit as 'asses' or 'White Nig[g]ers'anxious to enslave themselves to 'the Jews and publicans of Towns & villages'.\textsuperscript{40} Apart from the anti-Semitic slur, personal to Berry, these views were consonant with those of the Scottish landowning class of the Dundas ascendancy. Berry responded to the threat of town development as it had done by himself providing or securing essential public services and attempting to develop estate villages or 'farmtouns' at Numba, Greenwell Point, Bomaderry and Broughton Creek where facilities such as inns, stores, police stations, post offices, court houses and churches could be provided while he retained substantial control.

From the start Berry's schemes met with strong opposition from independent small settlers and businessmen, some Berry tenants, and others who counted as gentlemen when their interest conflicted with his. Berry was perceived harshly as a monumentally selfish man bent on forcing others to bow to his will, rendering them his 'serfs'. The struggle against Berry's purposes was a struggle for independence and a repudiation of his view of social relations. In particular shutting out of would-be settlers was bitterly resented. Applications for some thousands of acres of Crown land to be measured and put to auction as small farms were reported to have been sent in repeatedly to the Survey department without so much as acknowledgement. This was attributed locally to 'big men', notably Berry and William Elyard Jr, having preemptive leases for large areas of Crown land. One of Berry's opponents wrote:

\textsuperscript{39} See e.g. Berry's letters to David Berry early 1850 and espec. 4/4/1850, BP.

\textsuperscript{40} Berry to David Berry 6/7/1863, BP.
One party owns ten miles along the coast, thus holding
the keys of the settlement; and it has been the
practice at head-quarters to consider that estate as
the district, and to frame the whole policy to meet
the views of that party.\footnote{Empire, 18 Nov. 1853, quoted, & 8 Mar. 1855. See also
IM, 23 Mar. 1857: 'the people of Sydney are under the
impression that the whole of the Shoalhaven belongs to
one individual'.}

While Berry's influence with government was regularly
exaggerated by those opposed to him personal acquaintance
with senior officials did on occasion result in his getting
his way.

None of Berry's plans for villages on the banks of the
Shoalhaven came to much because he could not bring his
brother David, the man on the spot, to act with speed and
vigour to preempt rivals. Perhaps more important was the
fact that while the Berrys lacked capital to build villages
themselves and most prospective inhabitants wanted to own
not rent such was David's avarice with regard to land that
he steadfastly refused to sell the few acres needed for
town allotments. In 1869 when their attempts to form river-
front villages were all clearly failures Berry remarked
that it passed his understanding why David was so
determined to preserve the fee simple to the township site
at Bomaderry when he had no one to leave the land to. Berry
had seen what was required yet he lacked the will to
override David and sell allotments at Upper Numba and
Greenwell Point, as he acknowledged he should have done, to
allow purchaser development.\footnote{Berry to David Berry 24/8/1869, BP. In 1869 David
Berry was even resisting giving the residents of
Broughton Creek control over their cemetery: Berry to
David Berry 15/11/1869, BP.}

Matters were made worse by
David's greedy terms for a town lease: five pounds rent a
year for seven years with a house of specified dimensions
to be built within a set time and revert to the landlord at
the end of the seven years.\footnote{IM, 23 Dec. 1858, letter from John Dunmore Lang. In
his response SMH, 22 Feb. 1859, letter, Berry did not challenge the accuracy of Lang's assertions.} By 1870 he was giving long
leases at low rents; but by then the changed policy was of no use.44

To be a success any village needed a hotel, for the public house was the social centre of any locality. Alcoholism was a problem causing heightened concern Colony-wide from the eighteen forties. From 1847 the Berrys experienced serious annoyance from Michael Hyams's operation of the Sir Walter Scott Inn45 at Greenhills.46 Hyams's establishment was nothing more than 'a mean hedge drunken shop'.47 He was accused by some of his customers of being amongst publicans who adulterated their liquors to stimulate the thirsts of customers or to give their brew more potency after watering down.48 Whether this was so or not there was certainly a long series of cases at Shoalhaven of loss of life through individuals drowning while drunk, drunken violence leading to murder, 'accidents' suspected of being murders or attempted suicide,49 yet it was alleged in 1857 that police records for the district would reveal not a single instance of anyone ever having been charged with being drunk and disorderly.50 Hyams allegedly seduced or attempted to seduce various Berry employees from their work to get them drunk and in consequence between 1848 and 1850 the Berry brothers exerted themselves unsuccessfully to have him convicted of breaches of the Licensing Act and deprived of

44 Berry to David Berry 27/5/1870, BP.
45 IM, 13 October 1859.
46 Greenhills, not shown on modern maps, was the knoll on James Graham's land just below Nowra.
47 Berry to David Berry 8/1/1849, BP.
48 Berry to David Berry 22/12/1850, BP.
50 IM, 23 Mar. 1857, from G.U. Alley.
his licence. In 1850 Alexander decided not to trouble himself more about Hyams but David, a puritanical Presbyterian, remained strongly opposed to trade in intoxicants and eager to put Hyams out of business. At first David hoped that by building a well-conducted hotel at Numba he could close down Hyams's. Alexander told him he was being naive. In New South Wales 'the trade of Publican is to intoxicate & the Government derives a large revenue from Intoxication'. David would receive complaints about his own publican and if lots were sold and the village went ahead there would be other hotels he could not hope to control. Even if he could somehow shut Hyams down his successor would be as bad. It is open to conjecture that David Berry's feet dragging on construction of inns, a severe handicap for Berry's intended villages, owes something to his strong desire not to proliferate outlets for intoxicants. He refused to build an inn at Bomaderry where he, not Alexander, was proprietor, and was angered that storekeeper Richard Kemp was convicted of sly grog selling. Alexander could not understand David's concern. It was obvious to him that if Kemp did not supply the market somebody else would.

A long struggle was waged between Berry and his opponents over provision or control of essential public services such as a river crossing, the post office, the administration of justice and a polling place which developed into a contest to establish a commercial and administrative centre for Shoalhaven.

Berry conceived that the most essential of services

51 Berry to James Mackie Gray JP 29/4/1848, Berry to Constable Thomas Tanner 2/5/1848, BP.
52 Berry to David Berry 8/1/1849, 28/4/1849 & 16/9/1850, BP.
53 Berry to David Berry 28/4/1851, BP.
54 Berry to David Berry 28/9/1863, 12/5/1864, 24/2/1869, BP; IM, 7 April 1865.
and the matter most likely to give rise to demands for a district council was a means of crossing the river, so in 1848 he moved to solve this problem by providing a ferry service.

Long before that time he had for purposes of his estate constructed at great expense wharves on either side of the river at its narrowest point near Numba, provided punts and boats and employed a boatman. This boatman had been permitted to ferry strangers. In 1848 an agreement was made with the boatman whereby he took over maintenance of punts and boats and was allowed to set fees and charge passengers for his own benefit, save that he was to allow free passage to magistrates, constables, clergymen and any of Berry's employees on the business of the estate. In 1848 it was decided to move the ferry half a mile westward to a broader stretch of the river where wind and tide were more moderate and punts and boats could shelter in Broughton Creek when not in use. Construction of a ferry house was begun at the new location but three years later, as with most works under David Berry's management, the move was still no more than a proposal.55

By late 1849 there was talk of petitioning the Government for a public ferry, apparently at a position favourable to the trade of Hyams's public house. Berry dismissed this threat saying that the Government would not go to the expense of making another crossing when there was already one in the most favourable location.56

The ferry was used by Berry's political opponents as a means for attacking him. In the Legislative Council on 28 November 1851, when Berry was absent, Alec. Osborne attempted unsuccessfully to have £250 added to the Estimates for construction of a public ferry, arguing that it was an established principle that the leading thoroughfares of the country ought to be under the

55 Berry to David Berry 8/6/1848, 11/12/1850, 12/12/1850; Berry to Col.Sec. 14/5/1851, copy, BP.

56 Berry to David Berry 5/11/1849, 30/9/1850, 12/12/1850, BP.
Executive's supervision and protection. The Shoalhaven ferry was private property, the ferryman a servant of the proprietor and in attendance only when not employed on his master's service. Passengers were frequently obliged to wait all day and he had often to swim his horses across the river. Indeed 'the whole interests of that part of the country was sacrificed to the insatiable cupidity of the proprietor'.

On the next day of sitting Berry persisted in attempting a general defence of his character instead of confining himself to Osborne's allegations. When finally the Speaker despaired of bringing him to order and refused him permission to continue Berry left the chamber saying that 'if the House would not allow him to defend himself, they ought not have allowed him to be libelled'. The Speaker, concerned that Berry might challenge Osborne to a duel, sent a messenger to Crows Nest to obtain Berry's promise to let the matter drop. The controversy continued in the press when Berry secured publication of a report which the Speaker had refused him permission to quote from and Osborne replied in a peevish letter alleging serious failings in the ferry service, appending a letter from G.U.Alley in corroboration. Berry tendered to the Colonial Government his defence against Osborne's 'untruthful and malicious charges' after his agent assured him that all the principal allegations were unfounded. Osborne was not even in the district on the date of one alleged incident. In the agent's opinion Alley was responsible for what had appeared in both his and Osborne's

57 *SMH*, 29 Nov. 1851 : LC 28/11/1851.


59 Berry to David Berry 4/12/1851, BP.

60 *SMH*, 4 Dec. 1851.


62 Berry to Col. Sec. 29/12/1851, copy, BP.
names. Later Berry learned that Osborne offered successive ferrymen more than the fare asked, then complained of overcharging.

These attacks by inveterate political opponents upset Berry who felt himself hard done by when he paid a large sum to provide a public service and received no personal advantage other than free passage of employees on duty. He told David that the Government would be doing him a favour if it provided a ferry and saved him the expense.

Despite changing the ferryman at the end of 1851 Berry experienced continuing complaints about poor service and overcharging, although most people seem to have considered fares reasonable given the low density of traffic and heavy labour involved in crossing a wide river subject to strong winds and tides.

Opening of ferry crossings progressively at three other points along the river after 1858 made Berry's ferry less important and by giving individuals power to choose alternatives removed grounds for attacking him. By the mid eighteen sixties there was a Government ferry at Terara but it charged twice the fare of Berry's ferry.

From the eighteen twenties onwards courts were held at Coolangatta with the police magistrates at Wollongong visiting monthly. When that office was discontinued honorary justices sat monthly or more often in the estate

63 Charles Innes to Berry 20/12/1851. See also Berry to David Berry 15/12/1851, 18/12/1851, BP.
64 Berry to David Berry 24/5/1852, BP.
65 SMH, 3 Dec. 1851 : LC 2/12/1851.
66 Berry to David Berry 1 & 4/12/1851, BP.
67 SMH, 3 Dec. 1851 : LC 2/12/1851, Berry; Berry to David Berry 11 & 15/12/1851, 26/4/1858, Charles Innes to Berry 20/12/1851, Berry to Col. Sec. 29/12/1851, copy, BP; IM, 28 June 1858.
68 William A. Bayley, History of Shoalhaven, Nowra 1965, 64.
office. In 1845 Berry had Coolangatta designated officially as a place where courts of petty sessions were to be held and, *ipso facto*, a polling place.  

At the beginning of 1849 David Berry was concerned that the magistrates might succeed in removing the police office from Coolangatta to some more central locality away from the Berry estate. Berry, again with ill-founded complacency, assured him that neither the Government nor individuals would be willing to incur attendant expense. In 1850 the magistrates got up a petition signed by about a hundred and forty people praying for removal to Greenhills where Hyams's public house would provide means of obtaining food and drink and those attending court would be saved ferry fares. Given that David Berry was sometimes a party in cases before the court it was reasonable that the magistrates should prefer not to sit in his office and had taken to refusing refreshment from him, but dislike of operating under the shadow of the Berrys and patronage of and friendship with Hyams were also factors. Berry offered no objection to a court at Greenhills but told the Colonial Secretary that the inconvenience of having to cross the river worked both ways. Courts should continue to sit at Coolangatta for the convenience of those living in the County of Camden. Privately he believed Numba was the proper location for a south bank court and considered David at fault for losing the court by not having built an inn there. In further submissions the magistrates showed their main concern was to get away from the Berry estate. They offered three locations, none of them central, as suitable venues for a court, turned down Berry's offer of

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69 Berry to Col. Sec. 24/4/1845 45/3849, CSIL, 1845 Miscellaneous Persons B (NSWA 4/2693.1); Appendix to Berry to Clerk of Executive Council 7/10/1861, BP.

70 Berry to David Berry 25/1/1849 & 30/9/1850, BP.

71 Berry to David Berry, 10,19,21, & 23/10/1850, BP. Berry to Col.Sec. 14/5/1851, copy, and Berry to Deas Thomson 26/5/1851 Private, BP were also principally concerned with arguing for retention of a court at Coolangatta.
use of a brick store at Numba until a court house could be built there, and submitted figures calculated to imply that there were very few people on the Berry estate whereas it contained about half the population. Nevertheless, when Berry offered to build a brick court house and a wooden lock up at his own expense the magistrates agreed to Numba being considered. The official sent to report on the four nominated locations, Police Provisional Inspector Scott, was son-in-law to Berry's close friend and neighbour Colonel George Barney.72 On 4 August 1851 Scott reported in favour of Numba.73 Numba court house was almost completed when Berry was officially informed of acceptance of his offer.74 Berry had been compelled to pay a significant price to obtain the court for Numba and keep it in the race to become the business centre of Shoalhaven.

Relations with the district's magistrates remained uncomfortable. Shortly before the Legislative Council election of September 1851 three of them sat to revise the electoral roll. Henry Osborne JP, the most influential Illawarra settler and a candidate in the election for St Vincent and Murray attended and sat with them. There was bad blood between the Berrys and Osborne because of allegations that when last in the district he had stolen a good many of Berry's young cattle. Osborne used such language to David Berry as 'would not have been permitted in any other court' and accused him of granting leases to create voters although the tenants had been placed long before agricultural tenants were given the vote. The magistrates not only permitted this but proceeded to strike off all of Berry's tenants and other qualified voters living on the estate, in all more than forty men, while allegedly confirming all other names on the list without enquiry. This was probably a consequence of David Berry's

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72 Berry to David Berry 11/5/1851, BP.

73 SMH, 4 Dec. 1851.

74 Charles Innes to Berry 20/12/1851, Col.Sec.to Berry 30/12/1851, Berry to [Col.Sec.] -/1/1852, draft, BP.
neglect to provide written leases and other documents needed to prove qualification. Berry supported his tenants in complaints about their treatment75 and required David to resign as returning officer for East Camden at Shoalhaven.76

The Shoalhaven magistrates had appointed as district constable Bernard Brown, a former Berry employee dismissed for misconduct, against whom there were charges which they left uninvestigated.77 One of them, Kenneth Mackenzie was tampering with tenants at Meroo, telling them their leases were invalid and they need not pay rent because they were on land selected by Wollstonecraft. Actually Berry had paid for this land and received the deed in his own name.78 Believing Shoalhaven would be better off without magistrates than those it had, Berry mentioned privately to Colonial Secretary Thomson that James Thompson lived with an Aboriginal woman and that Mackenzie was so little respected that Elyard's overseer had horsewhipped him and Thomas Hall had 'piddled in his hat in the Pot house - in order to show his contempt'.79 About this time Berry contemplated a petition for a police magistrate.80

Having gained the court proved of little moment. Throughout the early eighteen fifties the bench was

75 Berry to Kenneth Mackenzie JP 25/8/1851, Berry to Hugh Mackinnon and others 25/8/1851, Berry to David Berry 25/8/1851, Berry to Col. Sec. -/12/1851, draft, BP. For Osborne's life and career see IM, 14 April 1856.

76 Berry to C.Throsby Smith 15/9/1851, form of letter of David Berry to C.Throsby Smith, BP.

77 Berry to Col.Sec. 14/5/1851, copy, BP. See IM, 22 July, 12 Aug., 12,16 & 23 Sep. 1862 for Brown's inglorious eleven year tenure of office.

78 Berry to David Berry 1/9/1851, BP. Confirmed by the deed.

79 Berry to David Berry 25/9/1851, BP. When he first heard of the piddling incident Berry wrote that he was 'ashamed of the circumstances' and that 'Hall ought to send Mackenzie a new hat and an ample apology' : Berry to David Berry 30/6/1851, BP.

80 Berry to David Berry 20/10/1851, BP.
disrupted by departures and absences and sat very infrequently. Berry had to apply more than once to the Colonial Government because of David's inability to obtain a slaughtering licence. At least once he had to pay a claimant money from want of opportunity to prove that it was not owed and unwillingness to have it bruited about that David was taking advantage of closure of the court to welsh on debts.81

Through Berry's influence David and William Berry were appointed Justices of the Peace with effect from 1 July 1857.82 His purpose in securing these appointments seems to have been primarily to increase their respectability, but he must also have desired to shift the balance of opinion on the Shoalhaven bench. Neither retiring David nor reclusive William would consent to act and both were eventually struck off the list in mid 1864 without having been sworn in.83

Late in 1857 a petition signed by seventy landowners called for removal of the court house and lock up from Berry's 'deserted, much loved Numba' to Nowra.84 In 1859 £500 was voted for a court house at Nowra completed in mid

81 Berry to David Berry 11 & 25/3/1852, 8/4/1852, 14/8/1854, BP; Berry to Col.Sec. 31/12/1851 51/12,331, CSIL, Main series 1851 (NSWA 4/3022), Berry to Col.Sec. 4/1/1853 53/81, Bench Shoalhaven to Col.Sec. 12/2/1853 53/1490, CSIL, Register 1853; IM, 19 Jan. 1857.

82 Commission of the Peace. (List of Magistrates for New South Wales.), 22 May 1860, V&PLA, 1859-60, v II, 441; Commission of the Peace - Nominal List of the Magistrates appointed since 1st January, 1856, JLC, v V, pt 1, 1859-60, 252. IM, 24 Aug. 1857, ed1, was highly critical of Henry Osbone MLA's nomination to the magistracy of fourteen men, mostly his key political supporters. Curiously it named David Berry as one of his nominations.

83 IM, 2 Aug. 1864; Berry to David Berry 9/5/1867, BP.

84 Ibid., 7 Sep. 1857.
1861 and £300 for a watch house. Berry realised that steady pressure for removal of the court was a serious threat to Numba so as soon as the money was voted for Nowra he offered to transfer his court house and lock up to public ownership. There were concurrently agitations to close the Numba police office.

Berry's Shoalhaven opponents failed to persuade the Government to close down his court house but early in 1864 the magistrates handed them victory by refusing to attend, holding that there was no need for two court houses four or five miles apart. The proper place for business was the court house of the public town. Thereafter justice was no longer dispensed under Berry's patronage but according to public demand in a truly public place.

In 1860 Coolangatta, where David Berry was deputy returning officer, was removed from the list of polling places; a development which Berry attributed to the initiative of returning officer James Aldcorn, nephew of his enemy Dr Andrew Aldcorn. Late in 1869 Berry's opponents succeeded also in stripping Numba of its position as a polling place.

Until 1849 the post office for Shoalhaven was at Coolangatta but early in that year Postmaster General James Raymond decided that the mail should be carried through to

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85 Ibid., 7 June 1861.
86 Berry to David Berry 3/10/1859, BP.
87 Berry to Col.Sec. 28/12/1859 59/6657, CSIL, Register 1859. See for comment IM, 22 May 1860 & 7 June 1861.
88 Berry to David Berry 8/9/1863.
89 Berry to David Berry 23 & 28/3/1865, 29/11/1869, BP; Empire, 13 April 1865 : letter from 'Economist' to Col.Sec.
90 SMH, 15 Nov. 1860; Berry to David Berry 12 & 15/11/1864, BP.
91 Berry to Col.Sec. 11/11/1869 69/8567, Mayor of Numba to Col.Sec. 13/11/1869 69/8619, CSIL, Register 1869.
Numba. The Berry brothers began to look for someone to serve as postmaster. After agreeing with Raymond that from 1 March 1849 the mail contractor would leave a special bag for Coolangatta with David Berry, Berry affected not to care where the post office was placed.\footnote{Berry to David Berry, 11, 22 & 25/1/1849, 26/2/1849, BP.} This expression of attitude accorded with public perception of him as concerned only that the postal service, a public institution, be made to serve his private wishes.\footnote{Empire, 31 Jan. 1855.} Actually Berry was desperately keen to keep the post office for Numba. When the magistrates in 1852 began to agitate for removal to Greenhills he hastened to erect a new building and in December instructed the postmaster to move in whether it was finished or not.\footnote{Berry to David Berry 2 & 23/12/1852, BP.}

Numba retained its post office but over the years business declined and the postmaster's income shrank as other offices were opened at Pyree, Terara and Nowra. Two crises threatened its continuance in 1870. It was proposed to change the postal route from Gerringong through Coolangatta and Numba to Nowra to one from Gerringong through Broughton Creek and Bomaderry to Nowra. Numba post office would become a sub post office to Nowra and Coolangatta lose its daily mail service. It would take a day longer for a letter to pass between the Berry brothers. Berry reacted petulantly, ordering David to give the postal contractor no assistance at Bomaderry and proposing to employ a boy to carry their letters between Gerringong and Coolangatta and pay for him by cessation of donations to public charities and causes. But Berry still had influence and the situation was saved when he interviewed John Robertson, Minister for Lands, on 10 November 1870 and secured continuation of the mail run to Coolangatta and Numba six times a week. A threat to close Numba post office unless the office of postmaster could be filled immediately
necessitated offering the next incumbent a house rent-free.  

In 1850 Berry decided to direct his major effort for development of a village to Numba, and from then until near the end of his life participated in a three way contest with Prosper de Mestre's village of Terara and the Government town site of Nowra to make it the business and administrative centre of Shoalhaven. This competition tended to spread such town development as occurred. In 1857 a visitor wrote that 'Shoalhaven appears to be more a district than a town'. 

Although Berry achieved some coups for Numba in the early years gaining post office, police office and court house the contest was from about eighteen sixty really between Terara and Nowra, with Nowra gaining the upper hand only in the eighteen seventies. From 1859 onwards the struggle between Berry and the supporters of Nowra was overlaid by that between Berry and Shoalhaven Municipality.

Berry's selection of Numba as the site for his major effort probably appeared logical in the circumstances but in the event was shown to be the wrong one. For many years Numba was made a key point on the river and the road southwards by Berry's punt ferry being the only means for vehicles or animals to cross the Shoalhaven. In September 1847 a Wollongong publican wrote offering to lease any small inn which the Berry's might erect as he had been told by many respectable persons from the Southward that an Inn at the punt would be very desirable for the accommodation of travellers and

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96 SMH, 14 May 1857 : J.B. 'Wanderings in Illawarra' 30/4/1857. By 1863 the road between Numba and Nowra was 'the same as a long street, with houses every few yards fronting the road' : IM, 11 Sep. 1863.
would be well worth the keeping.  

At least as early as November 1849 the Berry brothers were discussing whether to build an inn at the ferry and on which side of the river. In October 1850, in the face of agitation to move the court and post office to Greenhills, Berry urged his brother to draw up a plan for a village at Numba and to commence building an inn. Numba was preferred to the landing place on the Coolangatta side, which had better building land because the bulk of the farming population was on the south bank. The chosen site was on a flood plain and proved from 1860 to be prone to flooding which increased in frequency and intensity. In March 1855 an *Empire* reporter drew attention to Numba's deficiencies. There was nothing in its geographic position 'to entitle it to ultimate success as a township'. It was situated on low, swampy ground where the water was muddy and brackish, far removed from any agricultural settlement or the 'location of any number of persons'. Numba

with all its struggles into existence, with all the prestige of the name of Berry, with all the advantages of having a post and a police office and a lock-up, can never rise to the position of even a village, locked in as it is by private lands fenced in on all sides, and which can only be traversed by private roads.'

The degree of proprietor influence preserved by development of such a site, central to Berry's purpose, was an


98 Berry to David Berry 29/11/1849, BP.

99 Berry to David Berry 28/10/1850, BP.

100 Berry to David Berry 29/11/1849, BP.

101 For argument over whether Numba had an adequate water supply see Charles Innes to Berry 20/12/1851, BP; *IM*, 2 Feb. 1857.

102 *Empire*, 6 Mar. 1855.

insuperable objection in the eyes of a populace determined to escape his stifling patriarchalism.

Because of the importance of a public house for getting a village started Berry urged his brother to build a small, cheap, quickly-erected timber building which could be added to later if required. He sent down plenty of tradesmen. David, who had been talking of building an inn since 1843, thought in terms of a substantial brick or stone building, and did nothing. In May 1851 all speakers at a public meeting agreed that David had been talking of a village for so long without doing anything that no reliance could be placed on his word. Berry was 'very much annoyed' but David, 'King Log' was such a procrastinator that he had to concede there was 'some truth' in what was alleged by 'those pot House Politicians'. By 1853 Berry had concluded that no amount of exhortation would induce his brother to build so in September 1854 he took advantage of the opportunity to buy a fourteen-ton iron building very cheap in Melbourne as the nucleus for his hotel. It was not until January 1858, fifteen years after David Berry began to talk of building a public house, that it was ready to advertise for leasing. It still lacked stables - without which Berry considered a hotel was 'nothing'.

Although the Royal Hotel, Numba was described at its opening as a first-rate house expected to do a good trade it suffered from the effect the lateness of its opening had on failure of Numba to go ahead. It proved a

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104 See IM, 17 Feb. 1857, for the earliest located use of this nickname.


106 Berry to David Berry 4 & 6/9/1854, 22/9/1856 3/11/1856, BP.

107 SMH, 31 Jan. 1858, advert.

108 Berry to David Berry 31/1/1858, BP.

109 IM, 15 Feb. 1858.
losing concern, was shut several times and had to be re-let at progressively reduced rents.110

In April 1852 David Berry proposed to give a new name to Numba village. Berry dismissed this. He was 'indifferent about the name of the village it will always by a paltry Hamlet'.111 Nevertheless Berry continued to do his best to make Numba a success, despite constant frustration from David's failure to move on any development at more than snail's place or heed warnings that sale of allotments was imperative. From 1850 until 1858 he persevered with attempts to settle a medical practitioner, but the position proved unremunerative.112 To have any chance of becoming the business centre Numba needed at least one general store. Such stores were proliferating elsewhere in the district113 when a store opened at Numba in 1854 in an iron building owned by the storekeeper, who paid ground rent. This man was in receivership by November 1856.114 The bankrupt store then remained shut for two or three years.115 The next storekeeper was also soon at the mercy of his creditors116 but the store seems to have survived

110 Berry to David Berry 29/1/1859, 7 & 9/7/1862, 14 & 18/3/1864, 1/7/1869, BP.

111 Berry to David Berry 14/4/1852, BP.

112 Berry to Robert Falder 5/9/1850, Berry to David Berry 10/10/1850, 19/2/1851, 3/3/1851, 19/5/1851, 25/9/1851, 20/3/1854, 15 & 25/1/1858, 2/7/1858, BP; IM, 12 Jan 1857: Shoalhaven Court of Requests 5/1/1857, Falder attempting to obtain unpaid fees, 21 Sep. 1857. Berry was personally anxious to have a medical man settle because political and personal differences with the other medical practitioners in the district meant that David 'could hardly call in any of the present people': Berry, Memo. n.d. (marked 10 - 175), BP.

113 SMH, 15 April 1854: six stores had opened in the last six months, making ten in all.

114 Berry to David Berry 6/9/1854 & 12/11/1856, BP.

115 Berry to David Berry 15/1/1858, BP; IM, 15 Feb. 1858: The store was still shut at this time.

116 Berry to David Berry 4/1/1860 & 30/7/1863, BP.
throughout the eighteen sixties. In 1872 David Berry finished a new larger store which had taken some years to build. Terara was then the business centre of Shoalhaven, the store was 'too good' for Numba and over a year later it remained unlet.\textsuperscript{117} When approached by the Presbyterian Synod of Australia, Church of England and Roman Catholic Church for assistance Berry made his gifts dependent on those bodies locating their churches at Numba.\textsuperscript{118} Similarly when he responded positively to a request to sponsor a small circulating library he placed it at Numba.\textsuperscript{119} The Berrys completed a pound in mid 1856 and after a delay this was, in the absence of any public facility in the district, gazetted a public pound; much to the annoyance of Nowra supporters who resented Berry's ability to have public buildings and structures located at his private village. The Berry brothers invited public humiliation by publishing a list of fees equal to those at Kiama stating that they had been approved by the Governor and Colonial Secretary. They had not in fact been approved and were later disallowed by Governor General Denison as too high. The public was reminded that 'King Log is no longer commander-in-chief of our district'.\textsuperscript{120}

Numba was much injured by the great flood of 1860 when, 'after some sixteen years struggling against the moral tide of public opinion into a miserable existence', most of it was submerged. George Underwood Alley wrote:

The water was several feet deep in the "Numba Court House", the record book alone, being on the top shelf was saved; all the rest, valuable law books and papers, have been destroyed. It is sickening to think,

\begin{itemize}
\item \textsuperscript{117} Berry to David Berry 25/1/1871, 20/12/1871, 25/1/1872, 10/5/1872, 2/8/1873, BP.
\item \textsuperscript{118} Berry to David Berry 11/4/1855, 27/7/1857 & 2/5/1864, BP.
\item \textsuperscript{119} Berry to David Berry 16/9/1850, 29/9/1851 & 6/10/1851, BP.
\item \textsuperscript{120} Berry to David Berry 28/7/1856, 4/8/1856, 14/11/1856, BP; \textit{IM}, 26 Jan. 1857, 30 Mar. 1857, quoted.
\end{itemize}
to speak, or to write of such wilful neglect of the public good .... Integrity, right, common sense, and prudence, have been wilfully repudiated to serve the blind, selfish interests of an individual: that his political influence may be at the service of a corrupt Government, warning after warning, and remonstrances in print, in writing, and viva voce, have been treated with contempt. 121

Despite this setback Berry continued to nurture hopes for Numba's progress. In February 1863 he ordered a tradesman to build himself another house immediately, hoping to let his current dwelling to a bank. 122 In 1864 he reminded David to leave plenty of space for town allotments. 123 In 1865 a newly-erected bakery complex was advertised for lease but the only prospective taker could not offer the minimum sum Berry would accept. 124 In 1866 Numba possessed a court house, lock up, council chambers, library, one store, one hotel and a few houses. It was never to grow beyond this and indeed throughout the eighteen sixties Berry had to struggle, not always successfully, to prevent its going backwards. The great flood of March 1870 put an end to hopes of Numba's survival, let alone growth.

When land was first put up for sale in Nowra from January 1857 more than one hundred allotments were sold. Purchasers were dismayed to find that no land had been reserved for any public purpose. Sixty-seven of them petitioned Parliament urging the necessity for reserving suitable sites for court house, school and post office. They had been induced to purchase under the impression that as the only government town in the district Nowra would 'naturally derive all the advantages which public buildings erected thereon would impart to its rise and

121 Ibid., 21 Feb. 1860.
122 Berry to David Berry 25/2/1863, BP.
123 Berry to David Berry 11/5/1864, BP.
124 Berry to David Berry 24/8/1864, 1 & 5/5/1865; SMH, 19 April 1865, advert.
prosperity'. Berry dismissed this slanderously as an application from 'the drunkards of Greenhills'.

In January 1857 Nowra consisted of seven dwellings: one weatherboard and the rest entirely or mostly of slab, and a large slab workshop. It was inhabited by seven families totalling forty-three individuals. Berry professed not to be able to 'understand how they maintain themselves in that locality'. By the end of that year Nowra had gained a hotel, a bakery, a church, a Presbyterian school, a new steam mill for grinding grain at the river's edge, a slab court house built by the inhabitants and a pound. It had been gazetted as a place for holding courts of petty sessions. A major problem for Nowra was that it was out of the way of existing roads and the river crossing. In September a move was set on foot to petition for a punt ferry between Nowra and Bomaderry and a new line of road from Jamberoo to Nowra through Meroo and Broughton Creek. The Illawarra Mercury's correspondent wrote:

I think the time is arriving fast when the great landholder, the lord of Coolangatta, must yield to the wants and opinions of the many in preference to his own sterile notions. The time undoubtedly is arriving, and is not far distant, when the interest of other landed proprietors must be consulted, having a greater stake in the district than he, for they stake their purse and exertions in the march of progress, earning for themselves a name of honor hereafter. He, the great holder of broad lands, can only reap (with all his acres) equally with poor humanity, a narrow pre-

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126 Berry to David Berry 13/3/1857, BP.
127 H.G.Morton to Berry 28/1/1857, quoted The Book of Shoalhaven: As It Was and As It Is, Sydney 1926, 22.
128 Berry to David Berry 13/3/1857, BP.
129 IM, 20 April 1857, 6 July 1857, 2 Nov. 1857, 7 Dec. 1857; Berry to David Berry 17/8/1857, BP; St. Andrew's Presbyterian Church, Nowra, Nowra 1975, n.p.
emptive spot whereon to rest his bones.\textsuperscript{130}

G.U. Alley greeted the leasing of the Numba hotel in February 1858 as marking the beginning of a struggle between Numba and Nowra to become the town of Shoalhaven. Nowra had a hotel and so would Numba. Numba had a brick court house and a lock up; Nowra had a timber court house and would have a lock up. Each place had about half a dozen houses. Neither then had a store. But, alas, Numba had undue influence and Nowra had not.\textsuperscript{131} Alley had it wrong. Changes in government had opened the way for populist politicians whose interest lay in satisfying Berry's opponents. He could no longer exercise 'undue influence' for Numba against the superior claims of Nowra to development.

In 1859 and 1860 Nowra appeared to be 'taking off', although in January 1860, no bids for sixty-one allotments put up at auction reached the reserves. By mid 1860 clearing of land in order to build was 'the order of the day'. Brick buildings were fast appearing towards the end of the year. In 1859 George Tory began erection of a 'very fine' brick hotel and John McArthur opened a store in August 1860.\textsuperscript{132} In December 1860 the population was put at three hundred.\textsuperscript{133} Development then slowed markedly as Terara advanced and Nowra actually lost population until after the great flood of 1870. A petition in 1858 for a

\textsuperscript{130} IM, 7 Sep. 1857.

\textsuperscript{131} Ibid., 15 Feb. 1858.

\textsuperscript{132} Ibid., 7 Mar. 1859, 29 Sep. 1859, 10 July 1860, 31 Aug. 1860, 6 Nov. 1860.

\textsuperscript{133} Petition of Municipal Council of Shoalhaven to Governor-General Denison 24/12/1860 60/5497, CSIL, Shoalhaven Municipality (NSWA 4/737.1). Cf Legislative Council, Report from the Select Committee on the Shoalhaven Municipality Petition, 11 June 1860, 6: Nowra was 'at present a small and insignificant place, containing between 20 and 30 houses, and a population varying, according to different estimates, from 40 to 63'.
government ferry was unproductive. A private operator began a service in September but did not achieve permanency. Significantly McArthur had opened his store as a branch of his Terara establishment and in March Tory was looking to build an inn at Broughton Creek because he did not think Nowra would ever go ahead. In October 1870 the population was only 214 - thirty-eight fewer than before the March 1870 flood.

Probably nothing else in his life aroused Berry to such a level of emotional intensity as the contest between Numba and Nowra, which he considered 'a suburb of Pandemonium'. He could not bring himself to inspect Nowra. In 1860 he and his attendant party approached Nowra on horseback but retreated after gaining only a slight view of it, causing a newspaper correspondent to write that 'out of compliment to those who named Berry - street after him, he might have "paid a proper visit" to the township'. In 1861 Berry refused to open a bank account because the Shoalhaven branch was at Nowra 'where Hyams & the other thieves would rob [David's] people after making them drunk - as had often happened'. When told in 1864 that the Nowra baker's bread had improved so much there was no chance of a baker succeeding at Numba he remarked bitterly: 'I would rather send for bread to the devils bakehouse

134 V&PLA, 1858, v I, 17 June 1858, 18 June 1858; Ferry at Bumaderry Point, Shoalhaven. (Petition for the Establishment of ), V&PLA, 1858, v III, 1211.
135 IM, 15 Sep. 1859.
136 Ibid., 31 Aug. 1860.
137 Berry to David Berry 21/3/1864, BP.
138 Berry to David Berry 26/10/1870: result of a census carried out by H.G.Morton at Berry's direction.
139 Berry to David Berry 30/7/1863, BP.
140 IM, 6 April 1860.
141 Berry to David Berry 7/1/1861, BP.
than to send to Nowra'. At some stage Berry placed a blacksmith at Bomaderry so that people on the north bank would not be 'compelled to go to Nowra'. After the disastrous flood of June 1864 he asserted that Bomaderry and Greenwell Point were the only safe places on the river for townships, refusing to consider Nowra although it had the same attribute of height above the river.

Although most public attention fell on the contest between Numba and Nowra the business centre for Shoalhaven from about 1860 until after the great floods of 1870 was Terara. From the time of the earliest grants on the river there was a government village reserve on flat land beside the river south from Pig Island. Development of this reserve began about 1850. The site was supplemented by sales in 1859-1860 of allotments from Prosper de Mestre's adjoining Terara estate. Berry looked upon development of Terara with very jaundiced eye. He suffered painful reverses at the hands of Terara in 1859 when the leaseholder of the Numba hotel transferred his licence to Terara, causing the Numba establishment to shut for some months, Numba lost its pound and de Mestre opened a rival ferry service. Berry unfairly placed the blame on his brother, telling David 'the Demaistres are not clever people but they beat you hollow'. He took some consolation from realisation that the Parliamentary vote late in the year to build a court house and lock up at Nowra marked the end of de Mestre's hope of making Terara

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142 Berry to David Berry 11/1/1864, BP.
143 Berry, Memo n.d. (marked 10-188), BP.
144 Berry to David Berry 17/6/1864, BP.
146 Berry to David Berry 12/8/1859, BP.
147 Berry to David Berry 17/10/1859, BP.
the town for the district. Berry was incensed when the two Shoalhaven Presbyterian congregations merged in 1865, his church at Numba was closed and its furniture later moved to the temperance hall at Terara. On the whole developments at Terara, essentially another estate village, caused Berry nothing like the angst aroused by efforts for advancement of Nowra.

Old Shoalhaven residents were agreed that the Berrys made a serious mistake in focussing their efforts on flood-prone Numba. Had they made their town at Greenwell Point when it was the shipping terminal and collection point for produce and there was no road communication to Nowra the government town would have stood no chance of expansion. The old hands were right about Numba and perhaps right about Greenwell Point in the short term - but Nowra's central location, status as a public town and developments in communications ensured that it would eventually become the town for the district. Berry seemed to acknowledge his mistake in selection in January 1858. In May 1870, when it was much too late, he decided to push Greenwell Point rather than Numba as the site for their village. As early as August 1854 he told David that as soon as the steamship to Sydney was operating regularly he ought to lay out a village and sell half-acre lots by auction. Despite frequent reminders it was not until January 1861

148 Berry to David Berry 3/10/1859, BP.
149 Berry to David Berry 30/8/1869, BP.
151 Berry to David Berry 15 & 20/1/1858, BP.
152 Berry to David Berry 3 & 27/5/1870, BP.
153 Berry to David Berry 15/8/1854, BP.
154 Berry to David Berry 6/9/1859, BP.
that David drew up a plan.\textsuperscript{155} Eight years later Berry was still writing in insistent terms that a town must be laid out and land brought into the market.\textsuperscript{156} In 1862 existing buildings were used to start a small, low-rental hotel known as the Black Swan.\textsuperscript{157} At Berry's death Greenwell Point was a hamlet consisting of the hotel, a few houses and two storage sheds.

Berry continued from at least as early as 1853 to urge David to lay out a village on his land at Bomaderry, saying that had he done so in good time he would have 'taken the shine out of' Nowra and Terara.\textsuperscript{158} It was not until late in 1859 that David laid out his village. The Shoalhaven Correspondent of the Illawarra Mercury reported under the heading 'Strange if True' that David Berry is determined, it is rumoured, to sell his land at the new town of Bomaderry in small lots. If so, it will be to his advantage and interest, as Bomaderry only requires pushing a little to make it prosper.\textsuperscript{159} This report was not accurate. David was determined not to part with title to so much as a square inch of land although the rival sites of Nowra and Terara both had allotments for sale. Berry, exasperated by this, told him it was 'madness for you to attempt to make villages at your own expense'. Even if they had the necessary capital it would be an unprofitable use of it.\textsuperscript{160} Without sales Bomaderry could not succeed. Richard Kemp operated a store

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\item \textsuperscript{155} Berry to David Berry 14/1/1861, BP.
\item \textsuperscript{156} Berry to David Berry 5/1/1869, BP.
\item \textsuperscript{157} Berry to David Berry 22/5/1862, 21/7/1862, 14/8/1862, BP.
\item \textsuperscript{158} Berry to David Berry 4/7/1853, 25/3/1861, 23/9/1863, 12/5/1864, 20/1/1869, BP.
\item \textsuperscript{159} IM, 29 Sep. 1859. See also \textit{ibid.}, 11 Aug. 1859 and 13 Jan. 1860.
\item \textsuperscript{160} Berry to David Berry 18/10/1869, also 7/1/1869 & 27/5/1870, BP.
\end{itemize}
there from the early eighteen sixties, but it failed.161

By 1869 there were calls for a bridge to be built across the Shoalhaven between Bomaderry and Nowra. Berry's usually progressive outlook in technological matters deserted him. He dismissed this as 'a very chimerical project!'162 Completion of such a bridge in 1881 changed the geography of the district and ensured that Nowra would remain the commercial and administrative centre for Shoalhaven. Bomaderry was as favourably located for success but David Berry's inertia, refusal to alienate land and toleration of Aborigines living there in a large camp in primitive conditions163 gave it no chance.

Broughton Creek, was the one Berry estate village to achieve modest success. In July 1853 Berry suggested laying out a village near the mill and selling allotments.164 James Wilson settled at Broughton Creek in 1857 as a farmer but established the first general store, butchery and pharmacy and in conjunction with T.M. Richards a large tannery. A village began to develop in 1860-1861 on the ridges to the rear of the confluence of Broughton and Broughton Mill Creeks. The first postmaster began duty, a newly constructed road to Kangaroo Valley came into use, David Berry built a church for the use of all denominations, and building lots were sold at auction in Kiama.165 That Berry was not kept apprised of developments is indicated by his surprise in September 1861 at finding Broughton Creek shown as a village on a government map when he believed that Wilson still controlled the whole site for

161 Berry to David Berry 28/9/1863, 12/5/1864, 24/2/1869, BP.
162 Berry to David Berry 24/8/1869, BP.
163 Bayley, *op.cit.*, 167.
164 Berry to David Berry 4/7/1853, BP.
165 Cornelius C. Brettell to Berry 20/7/1861, BP; Bayley, *op.cit.*, 72-73; Berry Museum, information regarding post office.
farming and again in 1865 when he read in the Kiama newspaper of a new store and a hotel nearing completion, having known nothing previously of either project although David was having both built. Broughton Creek progressed steadily until the great Shoalhaven flood of April 1870 inundated the first village on the flat beside the Creek, causing residents to move to higher ground. Broughton Creek settlement came to consist of three collections of buildings scattered over the valley. The population was upwards of 350 by the time of Berry's death.

Two factors seem important in differentiating Broughton Creek from less successful attempted Berry estate villages: occupiers were permitted to purchase and the village was sufficiently remote from the Shoalhaven riverbank settlements not to be in direct competition with them.

Berry could not succeed with his riverfront villages. Public perception of him as a selfish old man using influence to control services for his own convenience or advantage and determined to prevent progress by denying lesser folk a modest share of the land, personal independence and local self-government ensured strong opposition to him. In even the mid term he had no hope of stifling development of the superior site of Nowra. He might have succeeded in the short term by being first to erect buildings, alienating land and surrendering control over the people - but that would have been 'success' to no end for it would have meant abandoning his purpose.

166 Berry to David Berry 18/9/1861, BP.
167 Berry to David Berry 3/4/1865, BP.