The development of coal trade in the Wollongong district of New South Wales, with particular reference to government and business, 1849-1889

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CHAPTER 2

SUCH RESTRICTIONS AS THE GOVERNMENT MAY IMPOSE:
WOLLONGONG HARBOUR AND
THE OSBORNE WALLSEND TRAMWAY SCHEME, 1858-1860

Between May 1858, when the Wollongong Harbour Committee was formed, and the economic recession of 1863-64, Wollongong’s businessmen encountered several threats to their policy of economic change for the district. The Forster Ministry was but one. Even before William Forster became Premier in October 1859, the businessmen were fighting to save their policy from a scheme, proposed by Henry Osborne and Robson and Company in May 1858, to construct a tramway from the Osborne Wallsend mine to Wollongong Harbour. The Garretts and their colleagues were perturbed by the proposal because it appeared to them that Osborne and Robson were attempting to monopolise the Harbour, at the same time as the former were working to convince the Cowper Ministry to finance the reconstruction of the Harbour as a coal port.

The businessmen were not opposed to the tramway. On the contrary, they were in favour of anything that would increase coal production and, therefore, paid employment in their district. They did not, however, favour a scheme which threatened to close the Harbour to tramways from other mines, expected to open with the completion of the new port, except on terms dictated by Henry Osborne and William Robson.

Just as Osborne and others of his class had locked up the lands of New South Wales and deprived others of an opportunity for economic independence, so the little men of Wollongong believed that he was intent on locking up their coalfield. The coal trade was the only avenue that Wollongong’s businessmen had for the improvement of their material condition. There was no gold or other precious metal in the district, and virtually all of the land had been alienated from the Crown by the 1830s.1 Coal was their last chance, and they were determined to defend that chance against the monopolistic ambitions of Henry Osborne.

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1 B. Lindsay, ‘A Story of Early Land Settlement in Illawarra’ (Part 14). In Illawarra Mercury, 16 March 1934: by the late 1820s ‘The whole of the choice lands of northern Illawarra [i.e., the Wollongong
The New South Wales coal industry had been unprepared for the demand which arose from the gold rushes of the early 1850s. The price of coal rose dramatically, especially in the Colony of Victoria where the impact of the rushes was greatest and which was unable to supply its own demand for coal. Before the discovery of gold in 1851 coal had fetched a price of about 10 shillings a ton; by 1854 the Newcastle mines were selling coal (at Newcastle) for 30 shillings a ton, and in Melbourne shipping companies were willing to pay as much as 140 shillings a ton.² Because of its natural harbour, the Newcastle coalfield was the only supplier in this lucrative market. Although Wollongong was closer to both Melbourne and Sydney, its lack of a safe and sizeable harbour had ensured that the initial focus of activity in the New South Wales coal trade would be at Newcastle. By the early 1850s the Newcastle mines were linked to their harbour by railway and tramway and were exporting coal direct to intercolonial and foreign markets. Consequently, Newcastle reaped all the benefits from the emergence of the Melbourne coal market. With its coal monopoly and commercial importance on the increase, the Governor of New South Wales, Sir Charles Fitzroy, announced in 1854 an official programme of wharf improvement for Newcastle.³

However, not all of the northern mines were able to share in the booming New South Wales coal trade of the 1850s. Henry Osborne’s mine near Maitland, worked by William Robson and his partners, was all but shut out. The mine was situated in what the manager of
the Osborne coal properties, Francis MacCabe, later described as ‘steep, rough, mountainous
land’; Robson and Company, he stated, were ‘people of small means [who] carted away the
coal; they had to cart it many miles, and found the coal unprofitable to work in that way’.4 By
the height of the gold rushes, then, Osborne’s coal was being kept out of a market where it
could command a high price. When, therefore, James Shoobert’s Mount Keira property
became available in 1855, Henry Osborne took his chance. His money and Robson’s mining
skill secured what they considered to be an excellent seam of coal, and the Osborne Wallsend
mine was opened to give Henry Osborne access to the Melbourne coal market.

Wollongong, though, was not without problems for Osborne. The lessees of his mine,
Robson and Company, faced two major obstacles in exporting their coal to Melbourne at as low
a cost as possible. First, Wollongong Harbour was too small and exposed to permit the
loading of vessels of a size sufficient to trade direct on the open sea route to Melbourne, or to
any other intercolonial or foreign port. The coal had to be taken to Sydney in small coastal
vessels for re-shipment to export destinations, adding to the cost of Osborne Wallsend coal in
those markets. Second, Robson was forced to use the same inefficient method as James
Shoobert for taking coal from Mount Keira to Wollongong Harbour. Shoobert’s system of ox-
drawn carts hauling coal over a rough track from his mine to a depot on the main Mount Keira
road, from where it was taken to the Harbour in horse-drawn carts, was incapable of major
improvement and only compounded the problem of double handling. For the opening of the
Osborne Wallsend mine the best that Robson could do was to make a new road, from the mine
mouth to the Mount Keira road, enabling the horse carts to load the coal direct at the mine.5
Relative to the established Newcastle mines, with their superior export facilities, Osborne
Wallsend was faced with much higher costs for the transportation of its coal.

However, for Osborne and Robson, the real comparison at this point was not to be
made between Mount Keira and Newcastle, but rather between Mount Keira and Maitland.

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4 Quoted in Report from the Select Committee on the Osborne’s Leasing Bill; together with the
Proceedings of the Committee and Minutes of Evidence, p.8. In Votes and Proceedings of the
Legislative Assembly, Session 1881, Vol.5. MacCabe did not mention Robson or his partners by name.
He did, however, state that, apart from the ‘people of small means’, the coal property at Four Mile Creek
had not been leased to any other party. As Robson and Company were the original lessees of the
property, MacCabe had to be referring to them.

5 G. Eardley, Transporting the Black Diamond. Book I: Colliery Railways of the Illawarra District,
Henry Osborne had resided in the Wollongong district since the 1830s and was aware of the difficulties involved in operating a mine at Mount Keira. Yet, despite the poor state of the district's Harbour and its roads, Wollongong at least offered the chance to participate more fully in the coal trade than did Maitland. The latter was 15 miles from the port of Newcastle and, because of the terrain, virtually landlocked. Mount Keira was only three miles from the sea and was connected to a harbour by a road. As long as the price of coal remained high, the relatively high cost of getting Osborne Wallsend coal to market could be absorbed and still yield to Osborne and Robson the profits denied them by the Maitland mine. They were, in the first instance, less interested in competition with Newcastle than in being able to enter the coal trade at a time when profits were there for the taking.

Henry Osborne and William Robson seem to have acted in the expectation that coal prices would remain high for some time. However, by April 1857, when the Osborne Wallsend mine produced its first coal, prices had begun to fall. As new mines opened in Newcastle and the older ones stepped up production, the supply of New South Wales coal caught up with the Victorian demand, and prices returned to pre-goldrush levels. While demand in Victoria continued to dominate the pattern of New South Wales coal exports in the late 1850s, the return of equilibrium to the market ended the windfall profits of the first half of the decade. The twin supports of Osborne's and Robson's expectations, a high price in a desperate market, had vanished, and their transport costs made it impossible for their coal to compete against that from Newcastle. In October 1859 William Robson recalled that:

6 Before the completion of the first harbour improvements at Wollongong in 1844, the immigrants brought by Osborne from Ireland to tenant his farms at Marshall Mount had to wade ashore from the steamers which anchored just off the beach; the hapless immigrants then had to endure a trip to their new homes in carts drawn by bullock teams. S. Thomas, One Hundred and Thirty Years: A Family History; quoted in 200 Facts About Historic Illawarra. Compiled by H.J. Shaw. Illawarra Historical Society: Wollongong 1970, p.26. The produce from Osborne's farms would have been exported to Sydney through Wollongong Harbour.

7 There was an outlet at the town of Morpeth, five miles outside of Maitland on the Hunter River. With the advent of the Hunter River Steam Navigation Company in the 1840s, the town became the district's port, and steamers took coal and general cargoes downriver to the sea and on to Sydney. In the 1850s, though, the road from Maitland to Morpeth was still a 'rough' one. Ellis, op.cit., p.33.

8 Goilan, op.cit., p.31.

9 In 1857 66,703 tons of New South Wales coal were exported to Melbourne (68.5 per cent. of exports & 31.4 per cent. of production); in 1858 71,096 tons were exported (62.6 per cent. of exports & 32.9 per cent. of production), and in 1859 93,146 tons were exported (53.6 per cent. of exports & 30.2 per cent. of production). Calculated from figures in Statistics of New South Wales, from 1848 to 1857, 1849 to 1858 & 1850 to 1859.
By the beginning of 1858, therefore, Osborne and Robson knew that if they wished to continue mining at Mount Keira then they would have to do something about the Wollongong district's export facilities. The real problem, according to Robson, lay not so much with the multiple handling of coal as with the high cost of taking the coal to the Harbour in individual horse drawn carts. What was needed, he said, was a tramway direct from the mine to the Harbour, which:

would enable us to compete with other places which have facilities like those we seek for, and without which we should be shut up from the market when coals were at a lower figure [price].

That is, the fall in the price fetched by New South Wales coal in Melbourne from the mid 1850s had forced the Osborne Wallsend mine into direct competition with those of the Newcastle coalfield.

A tramway was intended to take advantage of the physical setting of the Wollongong coalfield and to give the Osborne Wallsend mine a distinct advantage over the Newcastle mines in the cost of transporting coal to a point of shipment. By the close of the 1850s, after an early phase of outcrop mining which involved a relatively small capital outlay, mining in Newcastle was being carried on principally by four heavily capitalised companies. Shaft mining had made its appearance on the northern coalfield, requiring more underground and surface equipment than had outcrop mining. Furthermore, the terrain was such that, once won, the coal had to be hauled all the way to the port of Newcastle along tramways and railways by horse teams and locomotives; the empty wagons then had to be hauled back to the mines. Osborne Wallsend, on the other hand, was an adit mine located 500 feet above sea level working the Bulli seam which outcropped on the escarpment. Until the point where the escarpment became a sheer sea cliff at Coalcliff in the north, it gave way to gently sloping

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11 Quoted in idem.

12 Gollan, op.cit., pp.13-14. These companies and their nominal capital were: the Australian Agricultural Company (£1,000,000), the Scottish Australian Company (£160,000), the Newcastle Wallsend Company (£100,000) and the Waratah Company (£60,000). Gollan notes that these were 'big firms'.
foothills and then to the coastal plain which ran for most of the length of the district. The advantages offered by this setting for the haulage of coal were described by an enthusiastic eyewitness in 1882, when four mines were at work:

The principle of the self-acting incline is adopted extensively ... and it is surprising to see the facility with which the coal is drawn from the mines and sent down the mountain sides towards the places of shipment, while the empty wagons or skips are drawn up the sides of the mountain and sent under the screens or into the tunnels where the miners are working ... the wagons after descending the mountain continue their course until they have traversed a considerable portion of the flat land between the mountain and the Wollongong basin, and they are then taken on to the coal staiths by a long team of horses.\textsuperscript{13}

This 'marvellously simple, cheap, and effective contrivance', he noted, contributed significantly to the ability of the Wollongong mines to produce their coal more cheaply than those at Newcastle.\textsuperscript{14}

Osborne and Robson, then, had as their chief aim a reduction in the cost of exporting Osborne Wallsend coal. This was to be achieved principally by the construction of a tramway from the mine to Wollongong Harbour. Compared to the tramway, the Harbour was at this stage a secondary consideration when measured against the urgent need to reduce costs. The improvement of the Harbour would require a great deal more time and money and it was in any case not owned by Henry Osborne but by the government. Therefore, when William Robson urged the businessmen of Wollongong in February 1858 to take political action to secure the improvement of the Harbour at public expense, he was actually asking them to guarantee a reduction, over the medium to long term, in the cost to his Company of getting its coal to intercolonial and foreign markets.

Wollongong's businessmen were more than willing to undertake this task, but already they were looking well beyond Robson's preoccupation with the interests of a single mine. They saw the improvement of the Harbour as a means of establishing a coal trade in Wollongong, with many mines and a large paid workforce. This subtle, but important

\textsuperscript{13} C. Lyne, The Industries of New South Wales. Government Printer: Sydney 1882, pp.69-70. See also Bailliére's New South Wales Gazetteer and Road Guide. Sydney 1866, p.623: 'the coal is let down the face of the mountain on shoots, and runs the greater portion of the way to the harbour by its own impetus'.

\textsuperscript{14} ibid., pp.56 & 70. Lyne noted that the thicker Bulli coal seam and the relative ease with which the Wollongong miner could hew the coal, also contributed to the fact that the coal 'can be put on board ship at such small expense that the collieries in the south will probably always be able to sell their coal at a price less than that for which any Newcastle colliery can part with its coal, and secure a margin of profit'.
difference of interests, was ignored, or at best overlooked, by Henry Osborne and William Robson in their tramway proposal.

After his speech to the Illawarra Agricultural Society, Robson took no active part in the subsequent campaign to convince the government that it should finance the reconstruction of Wollongong Harbour; that could be entrusted to the vigorous self interest of the local business community. Having pointed the latter in the right direction, Robson stepped aside to concentrate upon the immediate future of his mine. To the businessmen the Harbour was all important, the keystone of their hopes for a prosperous future. To Osborne and Robson it was secondary; they already had a mine, and the proposed tramway was the focus of their hopes for profit. The two interests were not mutually exclusive. However, the route selected by Osborne and Robson for their tramway threatened to give the latter a monopoly over access to the Harbour. John and Thomas Garrett and their colleagues were determined to prevent this, and the consequent struggle was Wollongong’s contribution to the wider struggle that was going on between the ‘little men’ and the ‘pastoral kings’ of New South Wales. In Wollongong, as elsewhere, the government was called upon to resolve this conflict, though not as a neutral umpire. Given the close political relationship that existed between them, it was not surprising that the liberal businessmen of Wollongong expected the Cowper-Robertson Ministry to impose a solution which protected their interests against the monopolistic ambitions of Henry Osborne.

Following a series of public meetings the Illawarra Liberal Political Association took up the Harbour question in April 1858, and in early May formed the Wollongong Harbour Committee to take up the matter with the government. With this in good hands, Osborne and Robson decided that the moment for the tramway had arrived. Osborne’s lessees possessed insufficient capital with which to undertake the work. Osborne, therefore, made a £3000 cash advance on coal royalties to Robson and Company and provided them with those lands he owned and over which they proposed to take the tramway.\footnote{\textit{Illawarra Mercury}, 5 & 12 December 1871 (letters to the Editor, from Francis MacCabe, 1 & 11 December 1871). MacCabe stated that: ‘It was upon the representation of the Company that the construction of the tramway would be a saving of price in the transit of the coal, besides being more expeditious, that the work was undertaken’.
THE OSBORNE WALLSEND TRAMWAY SCHEMES OF MAY 1858, JULY 1859 & MAY 1860
(Approximate Routes)

Foot of Incline from Osborne Wallsend Mine

Mount Keira Road

Smith Street

TOWN OF WOLLONGONG

WOLLONGONG HARBOUR

Crown Land

Harbour Street

Osborne until it reached a public road, Smith Street, on the northern side of the town of Wollongong, and about one mile short of the Harbour. From this point its promoters had two options: alter its course slightly to take it through lands owned by Charles Smith, or take it straight down Smith Street. Osborne and Robson chose the second option, which offered them several advantages: it was the most direct route to the Harbour; the government could simply hand Smith Street over to Robson and Company, relieving them of the obligation to purchase or rent land from Smith, and taking the tramway down a public road would require less expense in earthworks and excavations than would taking it through Smith’s land. Upon leaving Smith Street the tramway was to cross another public road, Harbour Street, run along a 385 yard length of Crown Land at the Harbour, and terminate:

above the low cliff near the Pilot Station, and project from thence a staith or shoot above the public road at the said Port, to load vessels with coal or other minerals, or merchandise, in the said Harbour of Wollongong.¹⁶

The price of not negotiating with Charles Smith was that Osborne and Robson required a private Act of the New South Wales Parliament to authorise them to privatise Smith Street. Such an Act would have been required in any case, as their tramway would traverse a stretch of Crown Land; as it was, they had decided to seek to have the Crown Land approach to the Harbour vested in Robson and Company. Normally, a petition seeking leave to introduce a private Bill into the Legislative Assembly could only be lodged by the initiators after they had given four weeks public notice of their intentions in the Government Gazette and in at least one Sydney and one local newspaper.¹⁷ Henry Osborne, however, anticipated the violent objections that would be made to his little land grab, and tried to have the Bill pushed through the Assembly without the customary period of public notice. The government’s initial response did nothing to dampen his hopes.

Osborne secured the services of his local Member of the Legislative Assembly and Wollongong solicitor, Robert Owen, to argue his case with the Minister for Lands and Public

¹⁶ *New South Wales Government Gazette*, No.72, 28 May 1858, p.871.

¹⁷ ‘Standing Rules and Orders of the Legislative Assembly’. In *The New South Wales Parliamentary Handbook*. 2nd ed. Government Printer: Sydney 1882, p.57. The Standing Order relating to notice of intention to apply for a Private Bill stated that ‘Notice of the intention to apply for every Private Bill shall be published once a week, for four consecutive weeks, in the Government Gazette, in one or more public newspapers published in Sydney, and in one or more public newspapers in or nearest to the District affected by the Bill, which notice shall contain a true statement of the general objects of the Bill*.
Works, John Robertson. On 11 May 1858 Owen, ‘on behalf’ of Osborne, wrote to Robertson, explaining that Osborne owned the land over which it was proposed to construct the tramway until it reached ‘the Common road or street [Smith Street] of one side of the Town of Wollongong’ and down which the tramway was to go to the Harbour. Owen inquired of the Minister whether the government would consider ‘setting aside’ the Standing Orders of the Assembly to allow Osborne ‘to obtain the sanction of the House for making a tramway from his Colliery to the port of Wollongong’. Acting on Osborne’s advice Owen presumptuously assured Robertson that, ‘It is not anticipated that the Inhabitants of Wollongong will interpose any difficulty’. In view of the storm to come, as well as the fact that he felt compelled to adopt such an unconventional method of obtaining a private Act, Osborne could not have believed this. It was an attempt to mislead the Minister: Osborne was hoping that he could avoid the requirement to give the public of Wollongong four weeks notice of his intentions. As political head of a Department at the centre of the seemingly infinite demands on public funds from the electorates, John Robertson could not be expected to have full knowledge of local circumstances in every case which passed across his desk. Hence, his response to Osborne’s request, while favourable, was suitably equivocal:

Inform Mr. Owen that so far as the Govt is at present advised of the merits of the case, there will be no objection to the course proposed to be followed.

19 ibid.
20 ibid.
21 It is difficult to see any other reason for Osborne attempting to get his Bill through in this manner. Time was not an enemy. Once a private Bill was introduced into the Assembly and read a first time, it went automatically to a select committee for detailed examination after which, if the committee reported favourably, it was treated in exactly the same fashion as a public Bill. Before this process was set in train, however, the initiators were required to give only four weeks public notice of their intention to apply for a Bill after which, at any time up to three months, they had to lodge a petition with the Assembly, seeking leave to introduce their Bill. If the petition was accepted the Bill could be introduced at any time in the following 30 days. See ‘Standing Orders of the Legislative Assembly’, op.cit., pp.57-60. Had Osborne adopted the customary procedure then his Bill could have been introduced in the Assembly before the end of June 1858. Even if the Bill had not passed through both Houses by the end of the Session, Osborne simply had to petition the Parliament within 10 days of the commencement of the new Session and the Bill would proceed as if no interruption had occurred: ibid., p.58. As it was the 1858 Session did not close until 26 November 1858, leaving plenty of time for the legislative process to take its normal course.
22 Note scribbled on Robert Owen to the Hon. the Minister of Lands & Works, loc.cit., and initialled ‘JR’ (John Robertson).
Robert Owen had no excuse, other than the pursuit of his own self interest as a businessman, for assisting Osborne and Robson to mislead the government and to threaten the interests of the majority of local businessmen. It was the latter who had made it possible for him to replace Henry Osborne in the Legislative Assembly at the general election of 1858. Business, however, was business, and to the legal firm of Owen Brothers Osborne’s money was as good as anyone else’s. Robert’s brother, Percy, acted as the solicitor for Osborne’s Bill.

As Owen must have realised, though, Osborne had overreached himself. At some time between the receipt of Owen’s letter and 28 May 1858, John Robertson changed his mind about Osborne’s request to have the Standing Orders set aside. Suspension of any Standing Order, other than in ‘cases of urgent and pressing necessity’, could occur only after the House had adopted a resolution to that effect, and neither Robertson nor any other Member put such a motion on behalf of Henry Osborne. Presumably, Robertson had become better acquainted with the local implications of the tramway scheme. Therefore, on 28 May 1858, in accordance with the Standing Orders governing private Bills, Osborne published in the Government Gazette details of his intention to apply for a Bill; on 31 May the same notice appeared in the Illawarra Mercury. To this point, Osborne and Robson had given no public notice of their intention to construct a tramway, let alone to privatise a public road and to appropriate the Crown Land approach to the Harbour in the process. The reaction from Wollongong’s businessmen was swift and angry.

John and Thomas Garrett saw in the scheme a direct threat to the development of a coal trade in Wollongong. Osborne, they believed, was attempting to convert Wollongong Harbour into a private port for his mine. In alerting the local community, the Garretts denounced in

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24 New South Wales Government Gazette, loc.cit.
25 ‘Standing Rules and Orders of the Legislative Assembly’, op.cit., p.64: ‘Except in cases of urgent and pressing necessity, no Motion shall be made to dispense with any Sessional or Standing Order of this House, without due notice thereof’.
26 New South Wales Government Gazette, loc.cit.
27 Illawarra Mercury, 31 May 1858.
particular the intention of Osborne and Robson to appropriate the 385 yard length of Crown Land at the Harbour as well as their proposal to erect a staith there for coal loading:

the allowing of any persons to construct a terminus to a tramway and to erect facilities for shipping coal, at the only place where it is possible to ship coal at Wollongong, will militate against the movement now being made to secure an enlargement of the harbor, and will secure a monopoly of the coal-trade of the district to the proprietors of the mine from whence the tramway is proposed to be brought.\(^28\)

The Garretts found a powerful ally in Charles Smith, the 'Father of Wollongong',\(^29\) whose property fronted onto Smith Street. Smith had influence in Wollongong. He had settled there in 1823, and was granted 300 acres of land. In 1834, at Smith's request, the town of Wollongong was formed out of part of this grant by the New South Wales Surveyor-General.\(^30\) From that time he had sold town allotments, including a number alongside Smith Street which, he stated later, was 'dedicated by me to public use'.\(^31\) Henry Osborne now proposed to take from these landowners their right of access to this public road. Smith too still possessed land with a frontage to Smith Street and he retained some notion of responsibility for the rights of those to whom he had sold land to which Smith Street provided the only public access. The land, he said, had been improved by those purchasers 'on the faith of having such Street strictly reserved to public use'; these people, he stated, looked to him to prevent any encroachment on this right.\(^32\)

Charles Smith, though, had wider economic interests in Wollongong than those threatened by the proposed closure of Smith Street. He stood to gain much from the improvement of Wollongong Harbour, and from the establishment of a coal trade. As a landowner and farmer in the immediate vicinity of Wollongong, Smith could only benefit from the growth of the town's population; and Charles Smith was a man who could recognise a business opportunity. He had been on the committee of management of the Illawarra Steam

\(^{28}\) ibid., 3 June 1858.
\(^{31}\) C.T. Smith to The Hon. John Robertson, *loc.cit.*
\(^{32}\) ibid.
Packet Company, which provided Wollongong with its first regular shipping service, in 1839. At about the same time he built a store close to Wollongong Harbour which he let to a Sydney merchant who imported goods from Sydney for sale in Wollongong. Thus, Smith had every reason to make common cause with other local businessmen who had reached the conclusion that Henry Osborne was scheming to keep for himself the wealth locked in the coal seams of the district.

The Garretts certainly believed this, and they urged the townspeople to take a stand against it. Accordingly, on 7 June 1858 John and Thomas Garrett convened a meeting of 20 persons in the reading room of the Illawarra Mercury premises, to arrange for a public meeting in opposition to the tramway scheme. The meeting, chaired by Charles Smith, considered four resolutions drafted by John Garrett. The first requested Osborne to re-route the tramway, away from Smith Street so as to take it through Smith's property; in opening the meeting, Smith had claimed that the 'planners' had originally intended to go through his land but, to avoid compensating him for this, had decided to opt for the cheaper alternative of taking over a public road. The remaining resolutions reflected the concern of local businessmen that nothing be allowed to obstruct the development of a coal trade in the district. The focus of that concern was Osborne's and Robson's proposal to appropriate the Crown Land approach to Wollongong Harbour.

While Osborne and Robson had shown some perception in getting local businessmen to take up the Harbour question with the government, their tramway scheme demonstrated a total insensitivity to the material aspirations of the same group. Osborne's arrogance made him a slow political learner. In January 1858 a coalition of Wollongong businessmen had driven him from the Parliament; in May he believed that he could ignore the rights and aspirations of that group and win. All that he achieved was the revitalisation of the Illawarra Liberal Political Association, which had swept him from office. Eleven of the 20 who attended the reading room meeting of 7 June signed the resolutions drawn up by John Garrett. Of that 11, three

34 Illawarra Mercury, 22 May 1894 ('Reminiscences of Illawarra' by Alexander Stewart).
35 Ibid., 3 June 1858.
36 Ibid., 10 June 1858.
37 Ibid.
were officeholders in the Illawarra Liberal Political Association and another seven were prominent local businessmen, at least three of whom had been active in opposing Henry Osborne at the general election of the previous January (see Table following).

This liberal/small business caucus, organised around John and Thomas Garrett with the *Illawarra Mercury* as its mouthpiece, represented the dominant political faction in the town of Wollongong, and was now locked in conflict with the wealthiest man in New South Wales over how the development of the Wollongong coalfield should best proceed. At issue was the distribution of the profits contained in the coal seams of the district. Were they, like the pastoral lands of the Colony’s interior, to be appropriated by squatter Osborne or were the businessmen of the district to get a fair return for their success in having the government commit itself to the reconstruction of Wollongong Harbour as a coal port?

Three days after the reading room meeting, a public meeting was held to consider what action could be taken to forestall Osborne’s plans. William Robson was allowed to address the meeting on Osborne’s behalf, and he made an appeal for co-operation on the ground that completion of the tramway along the proposed route would benefit both the Osborne Wallsend mine and the local community. His tone, however, was not conciliatory. Smith Street, he said, would have to be given over to the tramway because construction to date had brought it into line with that Street. Obstruction of the work, he claimed, would deprive his Company of an opportunity to lower its costs and, therefore, to compete effectively in intercolonial markets against Newcastle coal. If the tramway proceeded as planned, he assured his listeners, then the town of Wollongong would gain great financial benefit. He stated that his mine was exporting only 1000 tons of coal a month, whereas the tramway would allow that figure to rise to 2000 tons a week with a value of £2000, ‘which would all be spent in the town’. The townspeople, however, had other ideas about where and how Osborne would distribute his share of the profits, and Robson’s statement was greeted with ‘Great laughter’.

Thomas Garrett told the meeting that Osborne intended to monopolise Wollongong Harbour by erecting a staith at the only place where, at that time, vessels could load their

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38 *ibid.*, 14 June 1858. Robson told the meeting that Osborne had been the ‘projector’ of the tramway scheme.
39 *ibid.*
SIGNATORIES TO THE JUNE 1858 RESOLUTIONS AGAINST
THE OSBORNE WALLSEND TRAMWAY SCHEME

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation</th>
<th>Office in Illawarra Liberal Political Association</th>
<th>Supported Robert Owen at General Election of 1858</th>
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<tbody>
<tr>
<td>John Biggar</td>
<td>Storekeeper</td>
<td>Vice President</td>
<td>Yes</td>
</tr>
<tr>
<td>F.R. Cole</td>
<td>Auctioneer &amp; Surveyor</td>
<td>General Committee Member</td>
<td>Yes</td>
</tr>
<tr>
<td>R. Davison</td>
<td>Not Known</td>
<td>-</td>
<td>Not Known</td>
</tr>
<tr>
<td>Charles Fairs</td>
<td>Bank Manager &amp; Accountant</td>
<td>-</td>
<td>Not Known</td>
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<tr>
<td>John Garrett</td>
<td>Newspaper Proprietor</td>
<td>-</td>
<td>Yes</td>
</tr>
<tr>
<td>Robert Hayles</td>
<td>Spirit Merchant</td>
<td>Treasurer</td>
<td>Yes</td>
</tr>
<tr>
<td>George Hewlett</td>
<td>Bank Manager &amp; Postmaster</td>
<td>-</td>
<td>Not Known</td>
</tr>
<tr>
<td>George Lambert</td>
<td>Surgeon</td>
<td>-</td>
<td>Yes</td>
</tr>
<tr>
<td>Robert H. Owen</td>
<td>Solicitor</td>
<td>-</td>
<td>Son of Robert Owen</td>
</tr>
<tr>
<td>Charles Smith</td>
<td>Landowner &amp; Farmer</td>
<td>-</td>
<td>See Sources</td>
</tr>
<tr>
<td>Ignacy Zlotkowski</td>
<td>Farmer &amp; Theatre Owner</td>
<td>-</td>
<td>Not Known</td>
</tr>
</tbody>
</table>

**SOURCES**

Occupations of Biggar, Cole, Garrett, Hayles and Lambert taken from Supplement to the New South Wales Government Gazette, No.189, 19 November 1858, pp.1961-2 (petition re establishment of Wollongong as a municipality), and advertisements and miscellaneous reports in Illawarra Mercury, December 1857 to May 1858. Support for Owen taken from lists in election advertisements in Mercury, January 1858. Charles Fairs’ occupation from ibid., 17 February 1859. George Hewlett arrived in Wollongong in 1848 to manage a drapery store, subsequently becoming the proprietor; the Wollongong Post Office was part of his store. In 1854 he became Wollongong agent for the English, Scottish and Australian Chartered Bank. Hewlett sold the drapery business, kept the Post Office, and became manager of the Bank. (K. & M. Marshall, The Early Wollongong Congregational Church and Some of its Personalities. Illawarra Historical Society: Wollongong 1968, pp.9 -10). R.H. Owen was mentioned as Robert Owen’s son in the Mercury, 14 February 1859; see also W.G. McDonald, In Re A Gentleman, One: The Rise and Fall of Francis Woodward: Sometime M.L.A. for Illawarra. Illawarra Historical Society: Wollongong 1972, p.4. Ignacy Zlotkowski owned land which had been part of James Shoobert’s Mount Keira Estate, and which he farmed. (Mercury, 22 May 1894: ‘Reminiscences of Illawarra’ by Alexander Stewart). Zlotkowski also owned the Wollongong 'Concert Hall' (see ibid., 22 April 1858). The Mercury referred to him as 'Count Ignacy Zlotkowski, late of Montenegro'. Charles Smith was Returning Officer for East Camden and, therefore, took no part in the election itself.
cargoes. Robson’s counter claim that there was enough room to erect a dozen staiths fell on
deaf ears, and the meeting closed with the adoption of all the resolutions prepared by John
Garrett40 and the election of Charles Smith as chairman of a committee established to oppose
Osborne’s Bill ‘by all Constitutional means’.41 Only three of those present at the meeting voted
in favour of the Bill.42

The contest between Henry Osborne and the little men of Wollongong settled into a
struggle for public support. Osborne organised a petition in favour of his Bill, his opponents
circulating one against. By late June 1858 it was obvious that the businessmen had the local
population in their keeping. The Garretts reported that Osborne’s petition:

cannot have received the signatures of many residents of the town, as fully
three-fourths of the residents, and, with one or two exceptions, the whole of
the landed proprietors have signed the petition against the Bill.43

Armed with this success and the close relationship between Wollongong’s businessmen and the
Cowper Ministry, Smith wrote to the Minister for Lands and Public Works on 24 June 1858,
urging him not to give his support to Osborne’s Bill. He directed Robertson’s attention to the
proposal in the Bill to have the Crown Land approach to the Harbour vested in Robson and
Company. If this occurred, said Smith, the proprietors of the Osborne Wallsend mine would
be ‘to all intents and purposes Monopolisers of the Harbour’ and that the moves then underway
to have the government enlarge the Harbour would, therefore, be ‘neutralised’. Furthermore,
he stated, any future ‘public’ improvements at the Harbour would, if the Bill succeeded,
probably require the government to compensate the new proprietors of what was once Crown
Land.44

Smith made it clear to Robertson, however, that neither he nor any of the ‘very large
majority of the Residents of the Town of Wollongong including Landowners, Householders,
Storekeepers and Tradesmen’ who had signed the petition opposing Osborne’s Bill, were

40 ibid.
41 C.T. Smith to The Hon. John Robertson, loc.cit.
42 idem.
43 Illawarra Mercury, 21 June 1858.
44 C.T. Smith to The Hon. John Robertson, loc.cit. Smith informed the Minister that the land around
Wollongong Harbour that Robson and Company were hoping to appropriate, had been given to him by
Governor Macquarie. Smith had cleared and cultivated this land, which was subsequently resumed by
Governor Brisbane ‘for public purposes such as for erecting fortifications &c’.
against Osborne and Robson constructing a tramway through the town to the Harbour.\footnote{45} Smith had already told William Robson that he was ‘willing to allow the passage of the [tram]road through my land on a ground rent’.\footnote{46} By this simple replanning of the route, he told Robertson, Smith Street would be preserved and the tramway could proceed to the Harbour. With the Crown Land approach to the Harbour, however, Smith saw no room for compromise. As chairman of the committee appointed to oppose Osborne’s Bill, he concluded his appeal to the Minister by advising him that:

The Residents of Wollongong generally are not adverse to the construction of a tramway there, if the direction thereof be such as not to infringe upon public rights or to vest private interests therein, and the Committee humbly submit that public lands of such importance and value should not be alienated for the purposes sought.\footnote{47}

Wollongong’s businessmen recognised that the material aspirations of men of their class could be fulfilled only through the opening of new mines by wealthy individuals like Henry Osborne. For the Garretts it was essential, therefore, that those mines should have unrestricted access to all the necessary facilities.\footnote{48} However, to Wollongong’s businessmen their Harbour was not merely one of a number of facilities for the export of coal. Under their policy for the district the Harbour was intended as the export outlet for all of the mines which, they hoped, would open once the Harbour was equipped as a coal port. In 1858 their fear was that if Henry Osborne was allowed to monopolise the Crown Land approach to it, then he would be in a position to dictate the terms on which tramways from other mines would be allowed access. The businessmen were determined that no such impediment should be placed in the way of the inflow of capital and labour which they anticipated would follow the completion of the Harbour works.

In 1858 the ability of the Garretts and their colleagues to organise public support in the Wollongong district and political support in Sydney was too powerful for Osborne to
overcome. After the petition against his Bill was delivered to both Houses of Parliament in early July\(^{49}\) he let the matter rest while he assessed the situation.

From this point it must have seemed to Wollongong’s businessmen that the future that they had mapped out for the district was well within their grasp. Success followed upon success. In October 1858 Edward Moriarty commenced his survey of Wollongong Harbour and in February of the following year his report, which recommended the construction of a coal port at government expense, was tabled in the Legislative Assembly by the Cowper Ministry. The Ministry promised that the money would be forthcoming after the general election in June-July 1859. With the death of Henry Osborne at Marshall Mount on 26 March 1859, the principal antagonist of Wollongong’s liberal businessmen was removed from local politics. In the general election the Cowper Ministry was returned, and the liberals of Wollongong played their part by ensuring the election of Cowper’s protege, John Hargrave, who defeated Osborne’s son-in-law and manager of the Osborne estate, Francis MacCabe.

However, before Osborne’s death, both he and William Robson had had time to reflect upon their tramway proposal. The result was that they sought to take the tramway through Charles Smith’s land and not down Smith Street. The Garretts gave the proposal their support\(^{50}\) and in February 1859 were ‘glad to be able to announce’ the arrival in Wollongong of the first load of iron rails for the tramway.\(^{51}\)

Osborne and Robson had decided, as a result of the hostility toward their original proposal and of their need to reduce their transport costs quickly, to undertake construction in two stages. The first took the tramway from the Osborne Wallsend mine through the lands given over to Robson and Company by Henry Osborne to a point near the western end of Smith Street; from here the coal was taken to the Harbour in horse drawn carts.\(^{52}\) The second stage involved the more complex work of negotiating the terms on which the tramway was to pass through the lands of Charles Smith, cross a number of public roads and travel on to the Harbour. The Garretts were delighted with this sign of Osborne’s and Robson’s intention to

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49 This was during the first session of the second Parliament. However, there is no mention of the petition in the general summaries of petitions presented, in either Votes and Proceedings of the Legislative Assembly or in Journal of the Legislative Council of New South Wales.

50 Illawarra Mercury, 17 January 1859.

51 ibid., 17 February 1859.

52 ibid., 11 August 1859. See also Eardley, op.cit., p.7.
bend to their will, and confined their comments on the second stage of construction to the
simple observation that ‘An Act of Parliament, we presume will be necessary’.\(^5\) They
intended to use the Parliament to ensure that the Act embodied and protected the interests of
Wollongong’s businessmen against monopolists like Henry Osborne.

Henry Osborne’s death had no impact upon the principles at stake in the tramway
controversy. The patriarch was gone but he was survived by seven sons, into whose hands
passed the wealth and the lands which their father had accumulated. His coal properties were
divided in two, comprising those in the Newcastle coalfield and at Bulli, and the Osborne
Wallsend mine. The former were given to five sons, who retained the services of Francis
MacCabe as manager. The Osborne Wallsend mine was inherited by James and Francis
Osbome,\(^5\) who continued with their father’s and Robson and Company’s plans to construct
the tramway to Wollongong Harbour.

Despite their decision to take the tramway through Smith’s lands, rather than down
Smith Street, Robson and Company were unable to conclude a satisfactory agreement with
him. After a second marriage, Smith had vested his lands in two trustees for the benefit of his
new wife in her lifetime and the children of his two marriages.\(^5\) William Robson had offered
to buy the required land from Smith. Smith referred him to the trustees, who countered with an
offer to lease the land for a period of 99 years. This was accepted, but in subsequent
negotiations the trustees whittled down the period to 50 years, then to 21 and finally to seven.
This was unacceptable to Robson, who commented on ‘how unadvisable it would be to go to
the expense of constructing a tramway which at the end of seven years might be left in their [the
trustees’] hands’.\(^5\) Robson and Company had no alternative but to request the Parliament to
sanction the resumption of that part of Smith’s land needed for the tramway. They had already
been denied the use of Smith Street, and now Smith and his family were ‘shrinking away’\(^5\)

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\(^5\) Illawarra Mercury, 17 January 1859.
\(^5\) An Act to enable the Trustees of the will of Henry Osborne deceased to grant building and mining leases
for ninety-nine years. 45 Vic. Private Act (Assent: 4 October 1881).
\(^5\) Report from the Select Committee on the Mount Keira Tramway Bill, op.cit., p.10 (evidence of William
Robson). See also E. Beale, ‘The saga of the Keira tramline’. Illawarra Historical Society
Bulletin, November 1979, p.70.
\(^5\) Quoted in Report of the Select Committee on the Mount Keira Tramroad Bill, loc.cit.
\(^5\) ibid.
from a reasonable arrangement over the alternative route. As Robson put it, his Company had been placed in a position where ‘we thought it best to try to get a Bill’. 58

Smith’s continued opposition to the tramway also placed him offside with the Garretts and Wollongong’s businessmen generally, who were anxious that as few obstacles as possible be placed in the way of its completion; especially as the Illawarra Steam Navigation Company was then considering the purchase of steam screw colliers to enable it to take Wollongong coal direct to Melbourne. 59 In an editorial on the proposal, the Garretts combined their best wishes for the success of the Company’s plans with praise for the modified tramway scheme which, when completed, would allow the Osborne Wallsend mine to increase production. 60 Thomas Garrett’s position as a shareholder in the Illawarra Steam Navigation Company 61 added, no doubt, to his enthusiasm for both schemes. Not even the ‘Father of Wollongong’ could be allowed to impede the material aspirations of the district’s businessmen, and so they switched their support from Smith to Robson and Company. As John Garrett said when he moved the second reading of the tramway Bill in the Legislative Assembly on 3 April 1860:

it had been applied for by the proprietors of the tramway solely by reason of the necessity of carrying the tramway through certain private property in its course from the coal mines to the harbour. This it could not do without a bill to authorise the taking and paying for the necessary lands. 62

Robson and Company had duly published notice of their intention to seek a private Act of Parliament to complete stage two of their tramway (that is, from the temporary coal depot near
the western end of Smith Street to the Harbour) along a route ‘through the lands known as Bustle Farm, formerly granted to Charles Throsby Smith’ (see preceding Map).

On the issue of the Bustle Farm route, Wollongong’s businessmen were as one with Robson and Company. However, this identity of interest did not extend to the remainder of William Robson’s proposal. For Robson still sought to have the Crown Land approach to the Harbour, which the tramway could not avoid, vested in his Company. Yet, this insistence on the appropriation of what had become the most important 385 yards of land in the district did not create the excitement it had 12 months earlier. The Osbornes and Robson and Company had shown, at least where Smith Street was concerned, that they had learned to respect the ability of Wollongong’s business leaders to defend their policy for the development of the Wollongong coalfield. Thus, no attempt was made on this occasion by the promoters of the tramway to circumvent the Standing Orders of the Parliament and have their Bill introduced without adequate public notice. With notice given on 15 July 1859 of plans for the second stage of construction, John Garrett (newly elected for the Legislative Assembly seat of Shoalhaven) and John Hargrave (Member for Illawarra, Solicitor General in the Cowper Ministry, and protege of the Premier) had plenty of time to arrange for the reception of the tramway Bill in the Parliament.

John Garrett’s interest in the Bill centred on the Crown Land approach to the Harbour. He was determined that this part of the Bill be amended to ensure that future mine proprietors would have access to the Harbour on terms established by Parliament (that is, by Garrett and the interests he represented), and not on those that might be imposed by Robson and Company. Hence, he took advantage of his position as a Member to guide the Mount Keira Tramroad Bill at each step of its progress through the Legislative Assembly.

With Charles Smith persisting in his opposition, John Garrett, on behalf of Robson and Company, presented to the Assembly on 24 September 1859 a petition ‘Praying leave to introduce a Bill to authorize the completion of a Tramroad from the Mount Keira Coal Mines to

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64 Garrett was elected on 21 June 1859, at the general election.
65 The first session of the third Parliament (returned at the general election of 1859) did not commence until 30 August 1859, six weeks after public notice of Robson’s intention to apply for a Bill was first given.
Wollongong Harbour'. The Bill was introduced by Garrett a fortnight later and was, in accordance with the Standing Orders, referred to a select committee for consideration and report. In moving for the appointment of the committee Garrett also had the right to nominate its members, and the mover of such a motion was automatically included as a member. His nominees approved by the Assembly, Garrett encountered no opposition in having himself appointed chairman at the first meeting of the committee, on 14 October. His task now was to ensure that his committee produced a report recommending that the Assembly amend the Bill in such a way as to maintain Wollongong Harbour's status as a public port, particularly as in September the Cowper Ministry had placed on the Estimates the promised £26,892 for the Harbour.

The Cowper Ministry had no policy for the development of the Colony's southern coalfield. That was left to John Garrett and his Wollongong colleagues, who were friends of the Ministry, to determine. For them the Ministry's importance lay in its power to give support to some policies and not to others. Inside Parliament Garrett was free, with the Ministry's blessing, to conduct his own inquiry into William Robson's Bill. Within this context two other factors allowed him to impose his will upon the proceedings of the select committee. First, apart from one other member, he appeared to be the only one with any detailed knowledge of affairs in Wollongong; given that that other member was John Robertson, the Minister for Lands, Garrett could expect no problems from that quarter. Second, Garrett's committee, like most others appointed in the nineteenth century Legislative Assembly, was poorly attended by

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66 Petitions. General Summary of the Weekly Abstracts of Petitions received by the Legislative Assembly during the Session of 1859-60. In Votes and Proceedings of the Legislative Assembly, Session 1859-60, Vol.1. The petition had only one signature, that of Thomas Jackson, a partner in Robson and Company. 67 Votes and Proceedings of the Legislative Assembly, No.23, 7 October 1859, pp.1 & 2. In Votes and Proceedings of the Legislative Assembly, Session 1859-60, Vol.1. 68 ibid., No.25, 13 October 1859, p.2. 69 ibid. See also 'Standing Orders of the Legislative Assembly', op.cit., p.38. 70 Report from the Select Committee on the Mount Keira Tramroad Bill, op.cit., p.4. 71 Apart from Garrett and John Robertson the other members of the committee were: James Byrnes, who held the seat of Parramatta (west of Sydney) and was a prominent merchant there; Thomas Laidlaw, who held the seat of Yass Plains (about 200 miles south west of Sydney) and was a pastoralist there; John Laycock, who held the seat of Central Cumberland (close to Sydney), but whose usual place of residence was Grafton, about 400 miles north of Sydney; Alexander McArthur, who held the seat of Newtown (near Sydney) and was a prominent Sydney merchant; John Richardson, who held the seat of Brisbane (nearly 500 miles north of Sydney) where he owned a number of businesses; John Ryan, who held the seat of The Lachlan and was a pastoralist at Boorowa, about 250 miles south west of Sydney, and Robert Wisdom, who held the seat of Gold Fields West and who had been a Goldfields Commissioner. Biographical details from A.W. Martin & P. Wardle, Members of the Legislative Assembly of New South Wales 1856-1901: Biographical Notes. Australian National University: Canberra 1959.
its members. Only Garrett and John Ryan (one of the Cowper Ministry's 'faction stalwarts') attended all five meetings of the committee, and Alexander McArthur attended four. Of the other six members two attended twice, one attended once, and three attended no meetings at all. In effect, Ryan and McArthur, both nominated for the committee by John Garrett and operating under his chairmanship, decided the final form of the committee's report on the Bill.

At its first meeting, on 14 October 1859, the committee decided to seek a report on the general provisions of the Bill from the Chief Commissioner of Railways, Captain B.H. Martindale. This agreed upon, the committee adjourned until the report was received. On 20 October Martindale informed the committee that his report would be delayed because the Minister for Public Works, to whom he was responsible, had also requested him to supply information about the Bill. Again, the committee adjourned to await Martindale's report. The Minister's intervention meant that the committee did not reconvene for almost another two months, on 15 December. The real reason for the delay was that Cowper's newly appointed Minister for Public Works, Edward Flood, had directed the Engineer-in-Chief for Harbours and River Navigation, Edward Moriarty, to write a report on the Bill for presentation to the select committee. The committee had not requested this second report, and its members received no official notification of its existence until it was presented to them on 15 December, attached to Martindale's report, 'as directed by the Secretary [i.e. Minister] for Public Works'. Moriarty's report, however, was a clear and direct defence of the coal policy of

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72 G.N. Hawker, *The Parliament of New South Wales 1856-1965*. Government Printer: Sydney 1971, p.84: 'Many meetings [of select committees] lapsed for want of a quorum and the average attendance at committee meetings as a whole in the nineteenth century was around 40 per cent . . . The average attendance for many committees was 20 per cent or below'. Hawker cites pressure of Parliamentary business and an over indulgence by the Assembly in the appointment of select committees on an array of subjects, as reasons for such poor attendance; as a result, only 25 per cent, of committees produced a final report.


74 Attendances calculated from 'Proceedings of the Committee', in *Report from the Select Committee on the Mount Keira Tramroad Bill*, op.cit., pp.4-7.

75 ibid., p.4.

76 B.H. Martindale to R. O'Connor (clerk to the select committee), 20 October 1859. Quoted in ibid.

77 In accordance with the decision made by the Parliament in February 1859 the Department of Lands and Public Works was split. On 1 October 1859 John Robertson became the Minister for Lands, and Edward Flood was appointed Minister for Public Works.

78 B.H. Martindale to the Chairman of the Select Committee, 'Mount Keira Tramroad Bill', 15 December 1859. Quoted in *Report from the Select Committee on the Mount Keira Tramroad Bill*, op.cit., p.5.
Wollongong's businessmen, suggesting that it may even have been undertaken at John Garrett's instigation. In any event, the report was commissioned none too soon. On 26 October the Cowper Ministry was defeated in the Assembly and resigned.

In early December 1859, before Martindale and Moriarty had reported, the Forster Ministry reduced the vote for Wollongong Harbour. None of this, however, impinged on the conduct of Garrett's inquiry into the tramway Bill. Like Cowper before him, Forster had no policy for the development of the coal resources of the Colony. Hence, when Cowper fell, Forster focused on the opportunity to punish, in the most immediate way possible, those who had been pillars of the previous Ministry; it was part of the game played between the 'ins' and the 'outs' of the faction system. Of course, denying Wollongong's businessmen the money essential for their coal port spelled the effective end of their speculative coal policy. However, this simply forced them to fight for that policy on two fronts: against the Ministry to have the full Harbour vote restored, and within Garrett's committee to ensure that, when and if the latter battle was won, no single mine owner could monopolise the new port.

The Forster Ministry was unable to see any contradiction in destroying the coal policy represented by John Garrett, while allowing him to ensure that the policy was sanctioned by legislation. Clearly, in its treatment of the Harbour vote, the new Ministry was not interested in policy and its Minister for Public Works, Geoffrey Eager, did not interfere with the arrangements made by his predecessor for the preparation of reports for Garrett's committee.

On 15 December 1859 the committee met to consider Martindale's report on the Tramroad Bill. The Chief Commissioner for Railways confined his remarks to routine matters connected with the Bill, such as stressing the obligation on Robson and Company to supply and maintain fences and gates where the tramway crossed private lands and public roads. As Martindale expressed it, he was 'not acquainted with the Wollongong district', and refused to be drawn into matters of policy. On the all important issue of the Crown Land approach to the Harbour he was silent, preferring to draw the committee's attention to Moriarty's report where, he said, 'the Committee will perceive that that officer considers that it would be objectionable to vest in the promoters of that Bill such portions of the lands of the Crown as are described in

79 'Mount Keira Tramroad Bill' (Martindale's report). Quoted in Report from the Select Committee on the Mount Keira Tramroad Bill, loc.cit.
Schedule B of the Bill'. Where Martindale’s report was a purely technical one, Edward Moriarty’s was not. It set out with unmistakeable clarity the policy which John Garrett and his Wollongong colleagues had been fighting to establish since early 1858.

Moriarty presented his report to Forster’s Minister for Public Works on 1 November 1859, well before the vote for Wollongong Harbour was actually reduced by the new Ministry, and began it with a confident statement about the development of a coal trade in Wollongong: ‘a very large export of coals may reasonably be expected from Wollongong at no distant date, the whole of the coast range in its neighbourhood presenting indications of the existence of extensive coal beds’. This remark was just as speculative as those Moriarty had made in his report on Wollongong Harbour. Moriarty had become so enmeshed in the web of interests that had grown around the relationship between Wollongong’s businessmen and the Cowper-Robertson Ministry that he had little option other than to defend the policy for which he had provided the official justification. Under a new Ministry, clearly hostile to those interests, Moriarty continued to give his loyalty, if not to his former political masters, then at least to the report that he had written. When Geoffrey Eagar received the report, the Forster Ministry was not yet one week old. Already, however, Moriarty had misgivings about its attitude toward the Cowper Ministry’s vote of £26,892 for Wollongong Harbour, and prefaced his remarks on the Crown Land approach to the Harbour with the words, ‘If Government decide on improving the Harbour of Wollongong . . .’ On the subject of the Crown Land approach Moriarty flatly opposed the idea that it should be vested in Robson and Company. Given the existence of extensive coal seams in Wollongong and the possibility of the government providing the district with a coal port, it would, said Moriarty:

be injudicious to sanction that part of the Mount Keira Company’s Bill wherein [sic.] power is sought to appropriate land on the Government Reserve to the exclusive use of that Company, the effect of which would be to give them a monopoly, which would operate injuriously against any other Companies engaged in the same trade which may hereafter come into existence.  

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80 B.H. Martindale to The Chairman of the Select Committee, ‘Mount Keira Tramroad Bill’, 15 December 1859, loc.cit.  
81 ‘Mount Keira Tramroad Bill’ (Moriarty’s report). Quoted in ibid., p.6.  
82 ibid. My emphasis.  
83 ibid.
Such was Moriarty's commitment to the cause of the Wollongong coal trade that, over and above his contribution to Garrett's committee, he worked to change the Forster Ministry's ideas about his proposals for the reconstruction of Wollongong Harbour. Before that Ministry departed from office in March 1860 it had, at Moriarty's instigation, moved from a position of outright hostility to granting Wollongong a coal port to one where it stated publicly that it would at least consider the restoration to the Estimates of the full vote for the Harbour. Edward Moriarty had proved an invaluable ally for those interested in establishing a coal trade in the Wollongong district.

The reports of Martindale and Moriarty were entered into the minutes of the select committee, which now set about the preparation of its recommendations, for the guidance of the Members of the Legislative Assembly. In reaching its conclusions the committee had also to consider the evidence of the two chief witnesses summoned before it: William Robson and, notably, David Johnstone, one of the two trustees of Charles Smith's lands. Johnstone had appeared before the committee on 15 December 1859 on behalf of Smith who, a few weeks before, had lodged a petition with the Assembly against the Bill and asked permission for himself or his representative to be heard at the Bar of the House. The Assembly referred the matter to its select committee where Johnstone argued that the tramway would, in its then form, cut off a number of allotments from access to water holes, thereby rendering a part of Bustle Farm 'invaluable [sic.] and useless'. Johnstone urged a third change to the route which, as the Minister for Public Works told the Assembly in April 1860, removed the necessity for it to pass over the Crown Land approach to the existing Harbour.

This new proposal, which sought to terminate the tramway at a point on the south west of the Harbour basin rather than on the south east, where the two previous schemes would have placed it, had not been considered by either William Robson or John Garrett; probably because it meant that Robson and Company would have to erect their coal shoot on the side of the basin

84 See Chapter 1.
85 The committee heard evidence from three witnesses: Percy Owen (solicitor for the Bill, who answered a few questions on legal technicalities), Robson and Johnstone.
86 Petitions, op.cit.
88 Quoted in Report from the Select Committee on the Mount Keira Tramroad Bill, op.cit., p.11.
89 Sydney Morning Herald, 4 April 1860.
away from the existing Harbour facilities (see preceding Map). Yet, the proposal held out attractions for both Robson and Garrett. For the latter it allowed the contentious Crown Land approach to be avoided altogether, while for both men it meant that the tramway would be kept away from the site of the proposed Harbour reconstruction works. On 20 October 1859 Robson had told the committee that he did not expect his tramway to be fully laid out before those works commenced; if the works did commence before that time, he said, his Company intended to build that part of the tramway closest to 'the intended new dock . . . only . . . in a temporary way, not going to much expense for shoots, so that we should remove our rails with the least inconvenience'.

The evidence of Robson and Johnstone, though, only added weight to an idea already put to the committee by both Martindale and Moriarty. This was that the government itself ought to construct and regulate the use of a line of railway on the Crown Land approach to the new Harbour. Moriarty's was the more forceful of the two statements:

> It appears to me . . . that the better course will be to oppose all that part of the Mount Keira Tramroad Company's Bill wherein [sic] power is sought to appropriate any part of the Government Reserve . . . to the sole use of that Company, but at the same time to lay down a line of access to the water along which they in common with all others will be permitted to run their coals, subject to such regulations or restrictions as the Government may impose.

As with the rest of Moriarty's report this was consistent with John Garrett's ultimate aim of ensuring that access to the new port should be open to all mine proprietors, and he now turned the attention of his committee to this end.

The final report of the select committee was drafted and adopted at meetings held on 23 and 28 February 1860, both of which were attended only by Garrett, John Ryan and Alexander McArthur. At the first meeting McArthur moved that the Preamble of the Bill be amended 'by the omission of the words 'of the Crown hereinafter described and through certain other

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90 Quoted in *Report from the Select Committee on the Mount Keira Tramroad Bill, op. cit.*, p.10.
91 'Mount Keira Tramroad Bill' (Moriarty's report), *loc.cit.* Marlandale was less definite in his advice to the Forster Ministry, observing that: 'In the event of the Company having to run over any portion of a line constructed by the Government, the Government would no doubt retain the right of deciding the description of wagons to be used, and of inspecting those in use'. See 'Mount Keira Tramroad Bill' (Martindale's report), *loc.cit.*
92 See *Report of the Select Committee on the Mount Keira Tramroad Bill, op.cit.*, pp.6-7 ('Proceedings of the Committee').
This motion accepted, the committee recommended to the Legislative Assembly a Bill which not only gave John Garrett and Wollongong's businessmen what they wanted, but which also appeared to satisfy the interests of Robson and Company, the Osbornes and Charles Smith. Consequently, the Bill passed through all stages in the Assembly, where it was subjected to only minor technical amendments. On 16 May 1860 the Legislative Council passed the Bill without amendment, and one week later The Mount Keira Tramroad Act of 1860 received vice regal assent.

Although the Act, which regulated the route of the Osborne Wallsend tramway, did not even mention the most controversial aspect of the scheme, the Crown Land approach to Wollongong Harbour, the struggle over its control was far from being without significance for John Garrett and those in whose interest he acted. Their victory over the Osbornes and Robson and Company was of vital importance, as it ensured that their policy for the development of the Wollongong coalfield had survived intact. For, in the same month, John Robertson's Ministry, which had replaced that led by William Forster, restored to the Estimates the full vote of £26,892 for Wollongong Harbour. Hence, by May 1860, after two years of hard, constant lobbying, the little men of Wollongong could claim to have made themselves, as far as it lay within their power to do so, masters of their own future. The government of New South Wales had made a firm commitment to the acceptance, funding and defence of their coal policy. In addition, their adversaries in Wollongong, including the wealthiest man in the Colony, had proved powerless before them. After their father's death, James and Francis Osborne played no public part in the controversy over the tramway and, with Robson and Company, were reduced to petty actions to repay the Garretts for the troubles of the previous two years. When the first section of the tramway (to the temporary coal depot near Smith Street) was officially opened in early November 1859, the Garretts were forced to inform readers of their newspaper that:

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93 ibid., p.6.
94 For the Assembly debate on the Bill after the select committee completed its report, see Sydney Morning Herald, 4, 11 & 25 April, and 2 & 9 May 1860.
95 ibid., 17 May 1860.
We think it right to mention that we received no invitation to attend the opening of the tramway; this will account for a more detailed account of the proceedings not appearing in our columns.\textsuperscript{97}

Such minor insults could, however, be as easily ignored as made; the real battle had been fought and the businessmen of Wollongong had emerged as clear victors, secure in their belief that the economy of their district was at last about to take on a whole new direction with the construction of a coal port at Wollongong Harbour.

Even the interests of former friends and allies were sacrificed to make way for the glorious future of material prosperity which Wollongong’s businessmen saw opening up before them. Charles Smith, dissatisfied with the third and final form of the tramway scheme, presented a petition to the Legislative Assembly on 10 April 1860, urging it not to pass the Bill.\textsuperscript{98} In opposing Henry Osborne and William Robson in 1858, Smith had been useful. Now, however, the ‘Father of Wollongong’ was yesterday’s man, a farmer whose problems with the tramway were no longer of any concern to a group of dynamic, forward looking entrepreneurs. As Samuel Gordon, who had replaced John Hargrave as the pro-Cowper Member for Illawarra, told the Legislative Assembly on the day that it received Smith’s second petition against Robson and Company’s Bill: ‘He hoped the bill would not be thrown aside, but perfected, so that the objects of the company might be carried out’.\textsuperscript{99} With the passing of the Act the only major coal producer in the immediate vicinity of the town of Wollongong was empowered to complete a tramway to the Harbour basin, and could now increase the production of coal for export. At the same time, owners of capital would not be discouraged from investing in the district’s coalfield because of restricted access to the Harbour. This was exactly the result that local businessmen had been fighting for, and if Smith wished to impede the policy then he could expect no assistance from those he had once helped. He was left to pursue his objections in the courts.\textsuperscript{100}

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\textsuperscript{97} Illawarra Mercury, 10 November 1859. The Sydney Morning Herald was invited to send a representative to report on the opening which, ironically, proved something of a disaster as the first two coal trucks tested careered down the incline out of control and left the rails; see \textit{ibid.}, 11 November 1859.

\textsuperscript{98} Petitions, \textit{op.cit.}

\textsuperscript{99} Quoted in Sydney Morning Herald, 11 April 1860.

\textsuperscript{100} Eardley, \textit{op.cit.}, p.9.
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