

## Chapter 2

### GOVERNMENT AND PRIVATE MONOPOLY IN COAL MINING, 1822-1847

#### The last decade of the government collieries

After Newcastle ceased to be a purely penal settlement in 1821 the Government retained its coal mines. Although Commissioner Bigge had recommended that they be leased to private interests, that was to take almost a decade to arrange. Meanwhile there was little change in the operation of the collieries which continued to attract unfavourable comments from both laymen and experts, including Naval Surgeon Cunningham:<sup>1</sup>

*The coal shaft is sunk upon the summit of the hill, and the coals carted down by bullocks; but from the defective nature of the working, and the lazy habits of the incorrigibles who are sentenced to this labour, the produce does not at all correspond with what may be expected when a more efficient system is introduced.*

Three times the mines were inspected by experts who confirmed Cunningham's judgement and recommended changes in methods of production and management but little was done. There had been no basic change in transport technology since oxen were introduced to draw coal to the wharf, and the horse gin requested in 1817 was not erected until 1824. Water was still accumulating in the mine, impeding operations and requiring as many water bailers as there were miners in 1827. Nor was there any sign of a steam engine being provided though Governor King had forecast its need in 1801 and Busby argued in 1824 that: 'the increasing dearth of wood fuel in Sydney and the prospective demand for exportation will make the mines of such importance that the expense of a steam engine...will not be considered of moment'.<sup>2</sup>

Screening to permit the grading of coal by size had not been introduced and no workman was employed in the removal of impurities. Haulage from the pit top to the wharf was by waggon, the coal was stockpiled and the extra handling reduced it in size. The final stage of production, transportation from wharf to ship, was effected by gangs of convicts who worked from lighters and were always likely to pirate the vessel they were loading.<sup>3</sup>

#### Labour for the mines

The convict work force consisted of experienced miners and labourers who were sometimes put to coal cutting when trained men were in short supply. This practice irked John Busby who recommended that:<sup>4</sup>

*none but regularly bred miners, if it is possible to procure such, should be sent to work coal. The business of a miner is as distinct as that of a carpenter or blacksmith and no man is capable of it who has not been accustomed to it from his boyhood.*

However, the governor had other uses for convict miners, particularly in the construction of Sydney's water supply, and the coal mines had to wait until that project was finished before the labour supply improved.

Busby also suggested that boys be employed to propel trucks below ground instead of men with wheelbarrows. As the former would require less headroom this would obviate the removal of a thin stratum of indurated clay which lay between the coal and the sandstone, thus both saving labour and removing a source of impurities. It is not known whether this proposal, which was also intended to train future miners, was implemented, but the wharf that Busby and his son constructed was ready in 1827 and some of his other recommendations were also carried out. Nevertheless the mine remained primitive by English standards and when Parry saw it at the end of the decade he noted that the coal was still being drawn 'along wretched wooden rail-roads to the bottom of the shaft,' that four pumps driven by a 'wheel and one horse' constituted the drainage system and that only one bullock cart was normally used for bringing coal to the wharf.



The expectation that the Australian Agricultural Company would soon take over the mine had also made the Governor reluctant to provide new tools or appliances and this may have contributed to Parry's poor impression of the project.<sup>5</sup>

Miners still received an extra half ration because their arduous work demanded a higher food intake but Sir Edward Parry was amazed that they received extra for a task which could be accomplished long before the end of the official working day, so he took the precaution of writing to the Colonial Secretary to point out: 'the extravagant allowance of rations now given to the miners for half a day's work and requested the Government to alter it before the Company took the works into their hands'. He was more sympathetic towards their overseer, who impressed Parry as a very steady useful man. Edward Cottam was a convict who had supervised thirty miners for several years in return for his rations and sixpence per day.<sup>6</sup>

Captain Allman, commandant in the mid-1820s, later recalled that too many convicts were employed and that 'they were worked to punish them, not to profit of their labour' and the company's first mine manager reported that everything was done in a slovenly way by manual labour. In these circumstances it is not surprising that the police magistrate had to be employed as a disciplinarian. The convicts lived in barracks where alcohol and gambling were prohibited but drunkenness and games of pitch and toss were common. Running away was severely punished, usually with fifty or seventy five lashes. Petty theft was common, detection leading to floggings or the iron gang, and for lesser offences, the stocks were used. Disobedience brought heavy sentences and John Moore received 100 lashes for persistently sending up coal without the marks to show who had cut it and for answering the constable with such remarks as 'Damn and curse the marker'. With a work force of this kind operating in such conditions, maximum productivity was not to be expected.<sup>7</sup>

### **Supply and demand**

It is difficult to determine exactly how much coal was produced during the 1820s because the sources disagree. Busby said that the average output did not exceed 3,000 tons in the four years up to 1824 and the official statistics suggest a considerably lower average output. But in the second half of the decade about 4,000 tons per annum seems to have been usual.<sup>8</sup>

The mines were yielding far less than could have been obtained under vigorous management and this raises the question of whether the Government was interested in higher outputs. There were few colonial coal users apart from government departments and the demand for coal for export was insignificant.

Between 1823 and 1828 the annual average of Newcastle coal sold privately was 1,527 tons so that the Government appears to have been using about 2,000 tons per annum. This is borne out by the Government dockyard's advertisement calling for the shipment of this quantity for official purposes in 1825.<sup>9</sup>

Within the colony coal had been available in small amounts suitable for household use from at least 1822, and in 1826 coal scuttles were on sale in Sydney stores, but firewood was the usual domestic fuel, the **Sydney gazette** claiming in 1826 that even the poorest person burned a load costing five or six shilling each week. If John Busby's estimate was accurate, the total fuel needs of the colony exceeded 20,000 tons in 1826, a year when coal production did not reach one seventh part of that total, and soon afterwards the **Sydney monitor** commented: 'The new mines yield very badly...however the Government sell none of it: they have enough for their own consumption and the public must stick to the old material, Wood O'<sup>12</sup>

Even the Government relied heavily on firewood in centres outside Sydney, including Liverpool, so it is likely that the use of coal in private industry was still largely



TABLE 3<sup>10</sup>  
OUTPUT, NEWCASTLE COAL MINES, 1822-1831

Year	Tons		Blue Books
	Colonial Government	Auditor General	
1822			
1823			2,000
1824			3,000
1825			3,000
1826		{ 1,824 4,122 <sup>11</sup> 4,025	2,000
1827	4,042		3,500
1828	3,751		4,000
1829	2,406		2,400
1830	3,833		4,000
1831	3,653		5,000

limited to blacksmiths and founders. Certainly the three steam engines known to Sir Edward Parry in Sydney in 1831 did not use coal, possibly because of its poor quality and uncertain supply.<sup>13</sup>

There were occasional shipments from Newcastle to Van Diemen's Land before 1828 but the coal was not well known there and the intercolonial trade which was so important in the second half of the century had yet to develop. The export trade had a much longer history and J. T. Bigge expected it would expand if duties were reduced but foreign shipments during the 1820s remained spasmodic. More ships were visiting the colony and onward cargoes were relatively scarce but coal did not fill the need. In 1825, for example, eight overseas vessels cleared in ballast as did nearly all the convict transports and only five ships managed to obtain part or full cargoes for their next port of call. In that particular year only one coal export cargo was recorded but shipments went to a variety of Asian and Pacific ports in the last few years of government mining.<sup>14</sup>

Valparaiso, Batavia and Lima received cargoes in 1822, and on 5 March, 1823, the brig **Angerstein** sailed for Rio de Janeiro with 180 tons of coal and some cedar. Twelve days later Captain Joseph Blyth took the **Princess Charlotte**, 400 tons, to Newcastle where she loaded 120 tons of coal and a large quantity of cedar for Madras and Calcutta. In the same year the **Calder** sailed with coal for South America, the **Mariner** took 270 tons to Rio and the **William Penn** carried 200 tons to Isle de France. No exports are recorded for 1824 but early in 1825 the **Princess Charlotte**, having returned to the colony via London, Rio and Van Diemen's Land, loaded 460 tons of coal for Calcutta.<sup>15</sup> This shipment is of particular interest, for Captain Blyth reported the results to John Macarthur Jr who was then involved in negotiations which would give the Australian Agricultural Company control of the Newcastle mines.

The cargo had cost 10s.6d. per ton, f.o.b. Newcastle and 30s. per ton was charged as freight to India where 'the coals were much approved of in the [East India] Company's works at Calcutta, fetching 81s. per ton for a profit of one hundred per cent. Moreover Captain Blyth discovered that the East India Company bought several thousand tons per annum at that price and the prospects for the A.A. Company's new venture seemed excellent. However profitable the results of this shipment, the export trade did not continue to develop, only 218 tons going abroad in 1829, half each to British colonies and foreign ports for a return of £248.<sup>16</sup>

The output of the mines was not large enough to ensure that coal would be available to foreign bound ships and its continuing poor quality discouraged export. On this point the **Australian** and Sir Edward Parry were in complete agreement though the language of the newspaper was more colourful:<sup>17</sup>



*The coals he [Parry] is likely to have excavated for the market will probably be more bituminous than drossy - more economical in price and less wasteful in consumption, than the mixed mess of incombustible rubbish, and occasional clods of sulphurous stuff, which are too characteristic of the produce of the Newcastle coalmines, at present.*

So concerned was Parry about the poor quality of the coal coming out of the government mine in 1830 when the ship **Norwhal** was intending to load a cargo for India that he warned her captain and the ship was diverted. This suggests that whether ships were prepared to carry coal abroad, if available, was still purely a matter of speculation on the part of the captain.<sup>18</sup>

No estimate of the cost of raising coal in this period has been found but twenty years later William Lithgow, the Auditor General, claimed that the Crown's costs did not exceed £500 per annum and that the mines were therefore a source of profit since annual income often exceeded this amount apart from the value of the coal consumed by the Government.<sup>19</sup>

Brisbane revealed the attitude of the governors when he commented that coals were a useful source of revenue but Commissioner Bigge planned to relieve the Crown of this responsibility in return for an annual rent. However, there was an alternative, for Busby reported that a new mine on a site requiring no shafts or machinery, worked by convicts and linked by a tramway to a new wharf, could be worked so cheaply that the cost of production would be two shillings per ton. He was presuming a yearly output of 25,000 tons, sufficient to meet all the fuel needs of the colony and annual exports of 5,000 tons. Such an expansion in demand, he believed, would develop if the price of coal f.o.b. Newcastle were reduced to 7s.6d. and as firewood was gradually displaced from the market.<sup>20</sup>

The conduct of the mines by the Crown during the 1820s has been condemned but its failure should not be overestimated. The scale of production was unimpressive by English standards, the coal was not adequately cleaned and it suffered from overhandling but it is doubtful if demand was great enough to justify a modern colliery, as contemporary businessmen realised, and as the A.A. Company was to discover in its first few years in the industry. Sir Edward Parry summed up the hard-headed advice he had received in the colony: 'the coal mines they all consider as only to be worked with profit by cheap and simple means - and by convicts - with only one free overseer of active habits and good principles'.<sup>21</sup> However appropriate this advice may have been it was of small moment to Sir Edward for the initiative of the company in despatching steam engines, pumps, an iron railway and a mining party at considerable cost had already committed it to the development of a modern colliery.

#### **The Australian Agricultural Company enters the coal industry**

Earl Bathurst had accepted his commissioner's recommendation on the future of coal mining, using Bigge's very words in his communication to Governor Brisbane:<sup>22</sup>

*It appears desirable that leases of the coal mines for a term of years should be granted, reserving an annual rent and a portion of the coal raised unless subsequent enquiry should induce you to consider that they could be more advantageously worked by the Government.*

The Governor did not reply until the middle of 1825 when he explained that the coal mines had been retained because: 'there is no fit person to lease them on the usual principles of a Lordship, and if let to [an] unskilled individual, he might inundate and destroy the mine. Coals are very productive [of] revenue.'<sup>23</sup>

In the closing stages of his administration, Brisbane had discussed the leasing of the Newcastle mines with Thomas Winder, a Hunter Valley settler and shipowner who



operated his cutter, **Lord Liverpool**, as a packet boat between Sydney and the Hunter from December 1824. Subsequently, Winder claimed that the Governor had agreed to sell him 2,000 tons of coal surplus to the Government's own requirements, for sale in Sydney. Brisbane had departed without recording the alleged agreement but Governor Darling, his successor, felt obliged to honour it until enquiry could be made. This was unfortunate, for Winder, claiming priority over other purchasers, stockpiled the coal in Newcastle and the price in Sydney went up from 30s. to 40s. per ton. The **Sydney gazette** protested about this 'sham monopoly' and the incident coloured Darling's attitude to private control of the coal supply just as the British Government agreed to hand over the mines to the A.A. Company.<sup>24</sup>

When this company had been chartered to undertake the 'Cultivation and Improvement of Waste Lands in the Colony of New South Wales' coal mining was not envisaged among its activities, and there is some doubt as to who made the suggestion, its directors or the Colonial Office. The company's officers were later to assert that it was the British Government which asked them to undertake the management of the Newcastle miners but the official records neither supported nor refute their claim.<sup>25</sup>

The first mention of the company in connection with the coal mines occurs in a letter from John Smith, its Governor, to Robert Wilmot Horton, dated 31 March 1825:<sup>26</sup>

*We have the honour to enclose an extract from the Third Report of Mr. Commissioner Bigge upon the Agriculture and Trade of New South Wales in which we have observed that the Commissioner has recommended the Crown to grant leases of the Iron and Coal Mines that have been discovered in the Colony; and it appears to us that a portion of the large capital subscribed for the Australian Company might be employed in a manner beneficial alike to the Colony and the Company, in working the mines in question. We request you will be pleased to submit the accompanying proposals for the consideration of Earl Bathurst.*

Only nine days later the company followed up the letter, revealing the strength of its interest in the coal mines:<sup>27</sup>

*May I inquire whether we should enter into the question of the coal mines at our interview with you? It is one of great importance and several of our directors who are also directors of the East India Company are very desirous to work the mines, under a belief that they may facilitate steam navigation through the Eastern Seas and the rivers of our Territories in that quarter. The Company have several steamboats in India, and are about to send more. One is also preparing for Batavia. The coals are shipped under contract, from Newcastle whilst from our Newcastle they may be procured at one half the present expense in consequence of the short distance and the want of cargoes for convict and trading vessels.*

Thus there can be no doubt that in 1825 the A.A. Company was eager to acquire a lease of the Newcastle coal mines. It is still possible that the suggestion came from the Colonial Office but this does not seem likely as it is not mentioned anywhere in the correspondence. It is unlikely that its negotiators would have failed to use such an advantage in presenting their proposals to Earl Bathurst. It would seem therefore that when it was later asserted that the company had undertaken the working of the mines '**reluctantly**' at the expressed desire of the Home Government' its Governor was confusing two separate phases of the long negotiation.<sup>28</sup> The company took the initiative in 1825 not in response to a specific official invitation but because the introduction of steamers to India created a demand for coal and the Bigge report suggested that the Newcastle mines should be leased. Its directors displayed no reluctance about the project until October 1827 when they sought to withdraw from the venture but were held to their commitment by the Secretary of State for the Colonies.

The view that it was the British Government which asked the company to lease the



Newcastle coal mines has recently been asserted by J. Achison in his study of its origins. He has emphasised the constant tradition of the Company that the Colonial Office initiated the moves in 1825 and cites, in support, J. S. Brickwood's letter, written in April 1828, to his friend B. Thompson who had helped to complete arrangements for the coal venture.<sup>29</sup> The company's Abstract of Proceedings reviewing the coal negotiations, written three months later is, not surprisingly, consistent with Brickwood's position. Achison's case rests then, on Brickwood's assertion because the company's constant tradition is based upon his documents. It is also probable, argues Achison, that if additional personal papers of the directors are found, they will confirm that the approach did come from the Colonial Office. This may well be, but what is puzzling is Brickwood's imprecision on this point. If someone in the Colonial Office took the initiative, probably because of Treasury economies, as Achison avers, in March 1825, why was it necessary for the company to write on the last day of that month, enclosing an extract of Bigge's report supporting the proposal? It will indeed be interesting to see, if further evidence is located, who in the British Government made the suggestion: the answer to that question may explain why the company did not mention the source of the suggestion.

Some support for Achison's view is derived from a remark by James Macarthur in the Legislative Council recalling that:<sup>30</sup>

*during Mr. Huskisson's administration of the affairs of the Colony, it was considered desirable that the Government of this Colony should entirely divest itself of the management of all farms and mines, and in the course of a conversation at the Secretary of State's office, a proposal was made to the Directors of the Company, that they should take the mines ...*

Of course Huskisson was President of the Board of Trade at the relevant time and did not take over the Colonial Office until September 1827. Was Macarthur confusing the initial suggestion with Huskisson's insistence that Governor Darling should hand over the mines in 1827 or did the conversation he referred to actually occur while Huskisson was at the Board of Trade in 1825? As Macarthur was not in London at either stage in the negotiations his recollection would have been based on his brother John's experience.

The initial reaction of the Colonial Office to the proposed lease was favourable and the company reported to its shareholders:<sup>31</sup>

*Lastly we enter upon a subject respecting which, we have been more peculiarly anxious to meet you, namely - the result of a negotiation recently concluded with His Majesty's Government regarding the mines of coal in New South Wales. We have the satisfaction to acquaint you that His Majesty's Government have agreed to grant to the Company, a lease of these coal mines for a period of thirty one years. His Majesty's Government have also agreed to grant the Company, leases of any other minerals which may be found in the colony.*

This suggests that the Colonial Office had already acceded to the company's request for a lease of all minerals but the reaction of the Treasury was very different and Wilmot Horton was advised:<sup>32</sup>

*Pray do not close with the Australian Company on the terms they propose until I have seen you. Some of these appear to be quite inadmissible. We could not possibly agree to the last clause giving the Company a right of renewal on the same terms for a second thirty one years. Pray negative that clause positively. Nothing could be so improvident on the part of the Government as to tie itself up to any conditions in future leases.*



The company was eager to conclude negotiations, and as early as 25 April, 1825, only ten days after John Macarthur's request for an interview, its secretary had advised that experienced miners would be sent on a ship soon to depart should the government think fit to contract with the company. On 7 July, 1825, Earl Bathurst expressed his willingness to grant the company a lease of the coal mines at Newcastle for thirty one years in return for one twentieth part of the produce at market price.<sup>33</sup> Note that Bathurst's proposal was exactly what Bigge had recommended. The coal lands were to remain the property of the Crown and no legal limitation of the rights of others to produce coal was envisaged. Yet, within three years the company received a grant of 2,000 acres of coal land in the centre of Newcastle and was accorded a monopolistic position.

#### **The Australian Agricultural Company's monopoly**

The Crown Law Officers were responsible for the substitution of a grant for the lease. They objected that the company was formed to cultivate its own grant and that its charter did not encompass coal mining or the leasing of land. Faced with these difficulties, the directors agreed to a new proposal, that portion of their principal grant consist of coal land at Newcastle. As 2,000 acres of land on the banks of the Coal River had already been promised for a landing depot which was no longer required, they asked for the same quantity of coal land.<sup>34</sup>

Bathurst feared that such a large grant might 'place in the hands of the company a complete monopoly of the coals in the colony.' However, he agreed to grant 500 acres and promised to reconsider the matter after he had received a report from the Governor on the coal reserves of the colony. The Secretary of State then advised Darling confidentially to take care that 'the Public Interests be not prejudiced by allowing the company to take possession of more than a fair proportion of the most valuable land.'<sup>35</sup>

The effect of the Winder affair and the cautionary advice from the Colonial Office was to put Darling on his guard when the company's representatives raised the coal question. He had not been informed about the legal objections to leasing the government mines to the company and had concluded that the proposal had been dropped because of the danger of creating a monopoly. So confident was he that Bathurst would not hand over the mines that in March 1827 he privately commented on a report in the **Sydney monitor**: 'The Australian Agricultural Company does not possess one atom of the coal mines nor has the Government any intention of transferring any part of them to the Company'.<sup>36</sup>

Early in 1827 John Henderson, the officer in charge of the company's coal department, called on the Governor to discuss the venture. Concerned about the smallness of the local market for coal, he asked about the future of the existing mines. In reply Darling assured him of every assistance in opening mines at the Hunter River or elsewhere but declined to decide the fate of the government collieries until he received a specific proposal from the Company. He added that he certainly did not at present feel any disposition to discontinue the Government mines.<sup>37</sup>

The substitution of a grant of coal land for a lease of the Newcastle mines left the company free to select the most suitable location for its colliery. Port Stephens offered ease of supervision by its senior officers, and the use of already established facilities but Henderson could not find coal there. He visited Newcastle and though he was favourably impressed by its coalfield he concluded that the estuary of the Hunter River



would not be a suitable harbour for vessels engaged in the export trade. Consequently the Colonial Committee directed him to commence searching in the Parramatta area where John Blaxland's estate became the centre of operations.<sup>38</sup>

The Colonial Committee was dominated by members of the Macarthur family with James Macarthur and James Bowman playing leading roles during 1827 though John Macarthur Snr and Hannibal Macarthur also took an interest in the coal search. Their commercial and agricultural experience had not prepared them for such a role and they admitted that they would have to rely on their coal agent's advice.<sup>39</sup> However, the arrival of the colliery department in Sydney and the commencement of the coal search caused the committee such disquiet that they decided to abandon the project.

On 26 May, 1827, the Colonial Committee wrote to inform the directors that they had decided 'to break up the establishment under an impression that it cannot be conducted with advantage at present; and that its continuance can only occasion increase of trouble, with increasing loss and consequent disappointment'.<sup>40</sup>

In justification they argued that coal had recently been discovered on the Ganges River in India, that it might be found at the Swan River settlement and that therefore it was not possible to depend upon an export trade. They contended that the Colonial Government had refused to close its mines and that having no certain market for its coal the company would not be justified in incurring the additional expense involved in opening a colliery. Claiming that Henderson 'has uniformly stated ... that the Company were premature in attempting the establishment of mines unless there were sources of consumption of which he was not aware', and referring to a progress report made in early May 1827, James Macarthur commented: 'You will see from the report of Mr Henderson that the coal speculation is a most unfortunate one and must be abandoned'.<sup>41</sup>

However, though Henderson had failed to find coal at Port Stephens and had expressed doubt about the harbour at Newcastle, he was still in the early stages of the search in the Parramatta area and his subsequent reluctance to accept the decision to close the venture does not accord with the conclusions of the committee.<sup>42</sup>

The committee explained that Governor Darling had promised them every assistance in establishing a mine but had declined to decide the fate of the government mines until the company had established a colliery lest he expose himself 'to the imputation of placing a monopoly in the hands of the Company. When asked if the Government would be interested in acquiring one of the steam engines and employing its miners should the company abandon the project, he had remarked that such an offer would be 'favourably received'. On this basis 'and other indirect intimations' the committee 'had concluded that His Excellency had determined to continue the Newcastle Mines' and that the company should not proceed with its mining venture.<sup>43</sup>

Armed with this report the directors complained to the Colonial Office about Governor Darling's unco-operative attitude and the losses that had arisen from the idleness of their mining party and colliery plant. Arguing that they had every reason to expect that the Newcastle mines would have been handed over, they demanded an indemnity from colonial funds and stated, without justification, that the Governor had



approved of this indemnity. As they put it, the proposal to indemnify the company and transfer the colliery establishment to the Government was 'a proposal to the reasonableness of which they are led to believe that Governor Darling fully assented'.<sup>44</sup>

Stung by the Governor's apparent disregard for government policy, William Huskisson, who sympathized with *laissez faire* ideas and had just been appointed Secretary of State for War and Colonies, declared that:<sup>45</sup>

*he was not surprised the Committee were unwilling to work the Mines in competition with the Local Governor, if he were to be a Coal Merchant, but it would be a question with H.M.'s Government whether he would be allowed to continue in that occupation.*

Huskisson said governors were always complaining about being too busy yet they took upon themselves employments that they ought to have nothing to do with. He promised to take action as soon as he had heard from Darling but shortly afterwards he was succeeded at the Colonial Office by Sir George Murray who, after only a month in office, received another deputation from the company.

Murray heard the directors review the negotiations and ask for the inclusion of the government mines in the Newcastle grant. Murray concurred, but stated that he did not intend to place a monopoly in the hands of the company, for that perhaps would not be desirable: as there was a large quantity of coal land, other grants might be made. The directors replied that they never contemplated working the mines in competition with the colonial government or with others who might also be granted land for coal mines 'although the Company did not seek any restriction to prevent private individuals from working coal which might be found on their own lands'. They promised to increase production and to sell coal to the Government at 8s.6d. per ton, the estimated cost price, and on this basis the agreement of 28 July, 1828, was concluded.<sup>46</sup>

In a report prepared for Earl Bathurst, John Busby had described an extensive coalfield stretching from Port Stephens in the north to Wollongong in the south and to the Blue Mountains in the west. Thus the Secretary of State was able to agree to the request for 2,000 acres of coal land including the existing mines at Newcastle if the company desired to include them in the grant. In addition, though the quit rent on this land was not to be redeemable, it was to be assessed on the 'value of land for an ordinary superficial occupation, and not with reference to its value as mine land'. Moreover, instead of receiving the one twentieth part of the total produce of the mines envisaged in the original lease the Government would have to pay for its coal at 'prime cost'.<sup>47</sup>

An additional advantage was derived by the company from the sixth clause of the agreement:<sup>48</sup>

*As the Company will have incurred a great preliminary expense for a public benefit, which expense they ought to have a fair opportunity of repaying to themselves, no Governor will for the next thirty-one years, grant or convey any Coal mine, or land containing any Coal mine, without specific exception of the Coal in such grant or conveyance, nor afford any assistance in Convict Labour for the working of any Coal mine to any individual, or individuals, without the previous sanction of the Government, a sanction which would probably be granted, if the Company should avail themselves of their monopoly to impose an exorbitant price upon Coal, the produce of their mines.*

Thus though the Colonial Office was prepared to protect the company's investment it



retained two safeguards. There was the power to assist other competitors if the price was excessive, and the power, embodied in the fifth clause of the agreement, to resume the first 500 acres of coal land if at any time the company did not produce two thirds of the average annual output of the Newcastle mines in the years 1826, 1827 and 1828. Landowners whose grants predated the agreement were also free to open mines; however, the likelihood that any would be opened was lessened by the lack of understanding in the colony about the exact nature of the agreement. It had been expressed in the form of letters to the company and the Governor and it does not appear to have been published.<sup>49</sup>

At the conclusion of the negotiation, Murray emphatically directed Governor Darling to implement the agreement and demanded an explanation of his treatment of the company. Provoked by accusations of discrimination, the Governor launched into a long defence of this actions, stating that he had:<sup>50</sup>

*never before understood that the 500 acres of land which the Company was to receive at the Coal River under the authority of Earl Bathurst's despatch dated 26 July 1826, No. 51, was intended to include the mines at Newcastle.*

He had supposed that the:

*intention of leasing these mines to the Company had been abandoned by an idea that the Monopoly of Coals might prove injurious to the public, never having been informed previous to the receipt of your despatch, that any difficulty had arisen with respect of leasing them.*

Darling concluded his despatch with the promise that he would give the company 2,000 acres of land which had been reserved for future expansion of the town of Newcastle but did not let the matter rest there. He sought an explanation of the complaints about him from the Colonial Committee. They provided the relevant extracts from their communications to the Court of Directors so that it must have been obvious to Darling that he had been ill-informed by the Colonial Office and misrepresented by the company's officers in London.<sup>51</sup> His reactions may be gauged by his decision to reduce the price of coal before the company took over the mines.

### **The Company's first mine**

The company commenced to sell coal in September 1831, more than six years after the coal question was first raised in London. That it would persevere with the venture had been determined in 1827 but by then its Colonial Committee had disbanded the mining party and Henderson had returned to England. Thus the arrival of Parry in December 1829 did not lead to a start in mining; that had to wait for Henderson who returned in the following May. Then Newcastle was visited, the miners' tools collected, the engines were recovered from Port Stephens and the iron railway brought back from the Manning River. Slowly exploration of the Newcastle seams proceeded and eventually Henderson located his new shaft, nine feet in diameter and forty six feet above the Dudley Seam on the corner of the present Brown and Church Streets, set up the engines and erected the inclined plane to a new wharf. When the mine was opened officially on 10 December, 1831, invited dignitaries saw the first decorated waggons descend to the wharf where the steamer **Sophia Jane** waited to receive the first coal. A single hammer blow was all that was required to release the coal into her holds before two more waggons descended from the mine and by so doing caused the empties to



return. In its design and equipment this mine was without rival for twenty five years.<sup>52</sup>

Several other mines, Blaxland's at Newcastle in 1828, Platt's at Port Waratah about 1830, Threlkeld's on the west side of Lake Macquarie, Brooks' Lochend Colliery also in the Lake Macquarie area, and several others in the Four Mile Creek - Minmi region, were to be opened in the next sixteen years, but compared to the A.A. Company's mine they were primitive and on a small scale, related to the government mines which closed in 1831 rather than to their successor.<sup>53</sup> The company had a mine worthy of its own impressive origins but an appropriate market had yet to be found.

### Supply and demand

Output in the company's first full year of operation, 1832, exceeded 7,000 tons and though there was a slight fall in 1833, production grew year by year, reaching 12,000 tons in 1835, 21,000 tons in 1839, 30,000 tons in 1840 and 40,000 tons in 1842. There was then a decline in the company's output as demand fell and other mines were opened so that the 1842 total was not exceeded until 1847. However, total production in the Hunter area would have exceeded the 1842 total in 1846.

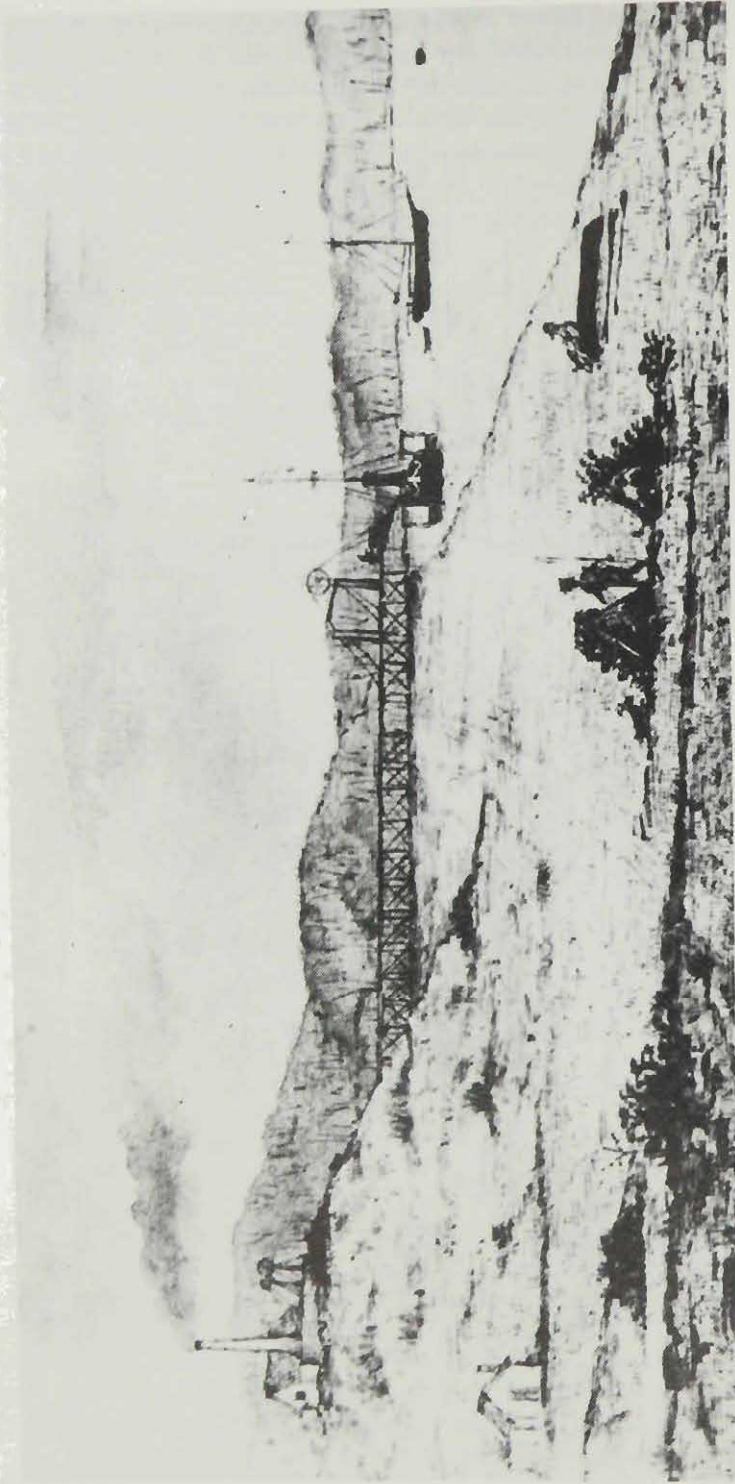
TABLE 4<sup>54</sup>  
NEW SOUTH WALES COAL OUTPUT, 1831-1847

	Quantity Raised Tons	Average Value Per Ton
		s. d.
1831	5,000	8. 0
1832	7,000	7. 0
1833	7,000	7. 7
1834	8,000	8.10
1835	12,000	8.10
1836	13,000	9. 1
1837	16,000	9. 9
1838	17,000	9. 9
1839	21,000	9.10
1840	30,000	10.11
1841	35,000	12. 0
1842	40,000	12. 0
1843	26,000	} +Ebenezer mine 12. 7
1844	23,000	
1845	22,000	+ 4 other mines 7.10
1846	39,000	} + 5 other mines 7. 0
1847	41,000	

This sharp increase, from 5,000 tons in 1831 to well over 40,000 tons in 1847, resulted mainly from the introduction of the steamship in 1831 and the extension of steamer service within the colony, between Sydney and the outer settlements and overseas. In the beginning the ships burnt some wood but it was no mere symbol that the **Sophia Jane** received the first coal from the new mine in 1831: she was already burning it. Demand for coal was boosted by each new steamer and by 1847, one company alone, the Hunter River Steam Navigation Company, was burning an amount equal to 18% of the company's total output of 39,000 tons.<sup>55</sup>

Reporting the near completion of two more steamers in 1835, Commissioner Dumaresq announced that a new shaft would have to be sunk and a fault corrected in 'A'





The great coal stairs of the Australian Agricultural Company, Newcastle, in 1833. The *Sophia Jane* is taking on coal and the Company's cutter, *Lambton*, is moored nearby. From a sketch taken on the spot by J. C. White. National Library of Australia



Pit in order that production might not fall short of demand. Four years later his successor explained that four or five more steamships would be in use within a year and that each one consumed about 1,000 tons per annum. Writing towards the end of a year in which output totalled 21,000 tons, Commissioner King predicted that within twelve months the steamers alone would be burning 10,000 tons; already they must have required about one third of the company's annual production. Then on the eve of the depression which would burst the colonial economic bubble, King commented that if all the steamers talked about eventuated they would consume more than his total output.<sup>56</sup> Of course the growth of demand for coal was not limited to steam navigation but it would be difficult to overestimate the importance of this use.

The Australian Gas Light Company's formation in 1836 promised to add considerably to the demand for coal though its initial needs were small. However, the company did not commence commercial operation until May 1841 when it became a regular consumer, buying its coal in Newcastle and contracting for delivery until its own vessel was acquired. More steam engines were also coming into use and the Colonial Government contributed to the growing demand by buying over 2,000 tons per annum between 1837 and 1839, much more than the 1,347 tons sold to it in 1833. The heavier winter demand for coal also suggests a growing domestic consumption. Thus Dumaresq expressed alarm at the rate at which his coal stocks were falling in August 1836, and by the end of the decade King was striving to accumulate a stock of 5,000 tons for meeting the mid-winter demand.<sup>59</sup>

Contributing to the market growth was the slow development of an intercolonial trade. After Lieutenant Governor Arthur enquired about the cost of supplying his colony with coal in 1830, shipping regulations were varied to permit direct trade between Van Diemen's Land and Newcastle and by August 1834, the company's coal was being sold there for 40s. per ton. Four years later coal from Port Arthur went on sale at five shillings per ton at the wharf, but the depth of the seam there and the distance of the mine from the place of loading made it difficult to meet the demand. Thus Newcastle coal continued to compete so effectively that in 1844 a duty was placed on coal from the mainland.<sup>58</sup>

Following the establishment of Melbourne in 1835 and Adelaide in the following year shipments of coal to these ports pioneered what was to be a most substantial trade in the second half of the century. The Port Phillip settlement was 600 miles from Sydney and communication by sailing ship was as hazardous and uncertain as the ten day overland trek was tedious. Thus pressure for a steamer service quickly developed and Melbourne was fairly effectively linked to Sydney by steamer from 1841. In December of that year two sailing vessels carried a total of 586 tons of coal from Newcastle for use in the steamships but the lack of fuel reserves continued to plague the shipowners on that run in the 1840s.<sup>59</sup>

The discovery of copper in South Australia boosted the development of the settlement and ultimately the demand for Newcastle coal but the ores were smelted in Wales until 1848, though the directors of the Burra Company considered establishing a smelter at Newcastle in 1845 and in the following year James Mitchell announced his plans for a copper smelter on his Burwood Estate. Until the first smelter was built at Burra in 1849, consumption of coal would have been mainly in steamships and metal working, as it was in the other outer settlements in the days before railways and gas companies.<sup>61</sup>

Settlements at Brisbane and the Swan River in 1824 and 1829 created additional potential markets for Newcastle coal but they were not to be as significant as Victoria and South Australia. Coal was to be found in Queensland and Western Australia, and



TABLE 5<sup>60</sup>  
COAL EXPORTS FROM SYDNEY, 1839-1847

Twelve months to 30 September	Total Exported (Tons)	Value of Coal Exported by Destination				Total Value
		Other British Colonies	South Sea Islands	New Zealand and Fisheries	Foreign States	
		£	£	£	£	£
1839	2,300	1,676	14	32	578	2,300
1840	2,520	2,333	4	227	60	2,634
1841	2,261	1,795	NIL	320	730	2,845
1842	2,650	2,495	NIL	123	1,025	3,643
1843	2,415	1,560	NIL	137	657	2,354
1844	1,702	1,253	120	90	10	1,473
1845	2,594	1,513	20	183	72	1,788
1846	5,347	2,799	202	344	347	3,692
1847	5,850	2,313	72	766	660	3,811

It appears that for administrative convenience direct exports from Newcastle were included in the Sydney totals. Even when direct exports were permitted from the Hunter in 1834 it was necessary for the master of the vessel to travel to Sydney to obtain his custom clearance. The declaration of Newcastle as a free port in 1846 did not lead to the publication of separate export totals by the Customs Department.

The value of coal exported appears to consist of the price at Newcastle plus freight to Sydney.

the latter colony, because of its location, was more likely to receive coal from the United Kingdom.<sup>62</sup>

The colonies in New Zealand were also potential markets and the establishment of steamship services from Sydney in the 1840s lead to the export of Newcastle coal for bunkering purposes to Auckland.<sup>63</sup>

British coal and coke was sometimes available in the Australian colonies as the home country expanded its coal industry and began to develop a vast export trade. Some of this would have reached Australia as speculative cargo or ballast and some was imported by colonial industrialists. However, the quantities were not large and supplies were so haphazard that in 1847 one Sydney merchant could not recall such imports and another had purchased only one quantity of ballast for 15s. per ton. It was more likely that English coal would reach the outer settlements where the price of colonial coal was higher but the amounts were not large, as Victorian statistics show. Imports into Port Phillip in 1847 included only seventy five tons of coal and coke from the United Kingdom.<sup>64</sup>

To facilitate the export of coal, Parry arranged in 1834 for a Sydney merchant to open a depot at his wharf 'affording very great facility for the shipping of coal as ballast, ... at a reasonable price, thus obviating the necessity for ships going to Newcastle for this purpose'. This may have had some effect for occasional references to exports began to appear in colonial newspapers towards the end of the decade. A Madras newspaper reported the arrival of a speculative cargo of 250 tons of Newcastle coal in the **Grecian** in 1839: it was on offer to the Government at fifteen rupees per ton and the report stated that it was hardly distinguishable from coal from the North of England and that it had never been seen in that city before. In the next year the British Government took 190 tons for its China Station steamships and there were occasional shipments to Chinese ports during the 1840s. Another enquiry came from Manila for a large and regular



supply, indicating an additional potential market.<sup>65</sup>

As a result of an agreement concluded in London by the A.A. Company and the Pacific Steam Navigation Company cargoes also went to Valparaiso and Lima early in 1841. The *Sydney herald* hailed this development because it might lead to a method of paying for the colony's imports of South American grain without using specie but questioned whether the necessary coal would be available, claiming that all that was produced was needed in the colony and urging that a strict search should be made for coal in 'eligible situations'.<sup>66</sup>

An indication of the comparative importance of the various market sectors may be obtained from Table 5. Annual exports from Sydney ranged between 1,702 and 5,850 tons, with an annual average of 2,492 tons, until there was an upsurge in 1846 when shipments to other British colonies rose to 2,799 tons to exceed the total amount exported in the previous year: this was to provide for steamers involved in the Maori Wars. Nevertheless the comparative failure of the export trade is brought out by the quantity of British coal, estimated at 115,000 tons, being used by steamers alone in ports east of the Cape of Good Hope, in 1846.<sup>67</sup> The A.A. Company Directors had sensed the potential of the coal export trade to Asian ports in 1825 but they had failed to capture it for New South Wales.

The company had opened new mines and improved the quality of coal but had been severely affected by labour shortages so that availability for export continued to be a problem, particularly in the late 1830s and early 1840s. However, it does seem that an adequate supply of labour alone would not have ensured a sizeable export trade as the evidence of Sydney coal merchants to the 1847 Coal Inquiry reveals.

The Oriental Steam Navigation Company ordered 600 tons of Newcastle coal for trial at its Singapore and Hong Kong stations from the Sydney merchant John Thacker but he had difficulty in supplying it. The company had stipulated that the price should not exceed 26s. per ton at its depots and it was difficult to keep within this limit. Large vessels were reluctant to visit Newcastle where the f.o.b. price was only seven shillings per ton and the Sydney price of 13s. per ton was too high to make the business profitable. Consequently the firm had been able to send only 200 tons and was waiting until one of its ships was proceeding to these ports to complete the order. Thacker explained the captain's reluctance to call at Newcastle in these terms:<sup>68</sup>

*The vessel has so small a margin for clean freight, that it would scarcely pay her to start from here to Newcastle - run the hazard of passing over the bar when laden, and incur the expense of taking it in - then subject herself to the delay, annoyance, and the expense of being detained by desertion of her crew. (who can only be replaced from Sydney).*

From the Spanish Government in Manila had come another opportunity - for the export of 10,000 tons per annum at no more than 20s.3d. for use in steamships, but Thacker had declined to tender because of the risk involved in obtaining shipping tonnage. He had tried to obtain a lower price from the A.A. Company but it had refused to supply superior cargoes or to lower the price to assist in securing these export orders. Sugar producers in the Philippines had also enquired for colonial coal if it could be delivered at about £1 per ton as they were using firewood but their business had been declined for the same reason:<sup>69</sup>

*Vessels frequently go up [to Asian or Pacific Ports] empty, and would take coal for almost nothing, when there are none going, but if a contract were taken and became known (which it must do) coal would then become an export, and a high freight be demanded accordingly ...*

However, when a quantity of coal from New South Wales did reach Manila it proved unsaleable at \$4 while English coal sold at \$8.50 per ton.



As the A.A. Company gave preference to its colonial customers, Captain King had refused to make coal available for export during one busy period when his stock was exhausted but this was unusual and the slowness of the export trade to develop after 1831 appears to have been caused by high freight rates that did not allow competition with English coal. Thacker's reference to the Manila market suggests that quality was also a significant factor and that consumers would pay twice as much to obtain a more suitable coal. This question was much discussed at the 1847 Coal Inquiry where John Thacker, John Piper Mackenzie and Thomas Hyndes, coal merchants who do not appear to have had interests in rival collieries, were highly critical of the A.A. Company's coal for its impurity and tendency to pulverize. The company was still mining the Dudley Seam and consumers complained frequently about the presence of slaty material in the coal.<sup>70</sup>

#### **Labour supply and industrial relations**

Just as the most powerful force for increasing coal demand between 1831 and 1847 was the extension of steam navigation, so labour shortages and labour relations tended to dominate the supply side of the industry until about 1843 when depression appears to have changed the labour scene. During the 1820s the mines had employed about thirty men for an annual average output of 3,500 tons. There were forty workmen in 1828 but early in the following year Governor Darling directed that in future there were to be an overseer, eight mechanics and twenty five labourers, a total of thirty four. To its own five miners the company added the government's colliery establishment, and then sought additional convicts under the terms of the 1828 agreement as it required them. Its five immigrant miners and sixty four convicts produced 12,392 tons in 1835, 179 tons per man, but the company believed that this output could not be sustained and appealed to the governor for more labour.<sup>71</sup>

Commissioner Dumaresq explained that the workforce was at full stretch, that it had not been possible to build up any reserve stock and that any break down in mine machinery would seriously interrupt steamship services. He added that the two steamers about to join the colonial fleet would require an additional 5,000 tons of coal per annum and asked for a total of 100 assigned convicts including fifty miners. Governor Bourke and his Executive Council readily agreed to the request but this did not end the company's labour shortages as demand continued to grow and the formation of the gas company promised a further increase. Thus, apart from the period after 1838, when twenty eight experienced miners and seven labourers who had been engaged in the construction of Sydney's water supply were assigned to the colliery, the supply of convict labour was inadequate. The promises of the British Government to provide labour had proved to be far more difficult to fulfil than either Secretaries of State or the company could have anticipated. Coal miners appear to have been transported rarely but even so it is difficult to avoid the conclusion that the colonial authorities did not do their utmost to fulfil their obligations to the company.<sup>72</sup>

The British Government had promised that every facility would be given in order that an adequate supply of coal could be maintained but Darling had cut back the Newcastle establishment in 1828, making it difficult for Parry to obtain replacements for convicts whose period of assignment was over and in 1833 Governor Bourke showed reluctance to supply mechanics for the maintenance of colliery plant. Two years later Bourke assured the Secretary of State for the Colonies that the company would be given 100 assignments for the collieries including as many miners as the government service could spare, but this total was rarely achieved. When Dumaresq introduced cash incentives Bourke rejected them in a manner considered peevish by the Commissioner but efforts to change his attitude failed. The labour shortage continued though, when assignment was severely limited late in 1838, Governor Gipps assured Captain King



TABLE 6<sup>73</sup>  
 ASSIGNMENTS TO THE A.A. COMPANY'S COLLIERIES, 1835-1841

	Miners	Miners or Labourers	Assignments per annum
1835	6	55	61
1836	2	12	14
1837	58	20	78
1838	0	12	12
1839	12	12	24
1840	4	7	11
1841	1	12	13

that, in the interest of the public, convicts would still be assigned to the colliery. King remained sceptical, convinced that the colonial authorities were not sending proper workmen but assigning a majority of men of the very worst disposition from the iron gangs and providing only six of the twelve colliery assignments ordered by Gipps in July 1839.<sup>74</sup>

Forced to commence an immigration programme because colonial labourers would not accept underground work, the company received a promise of assistance under the bounty scheme from the Marquis of Normandy, but this was denied by the Governor because the company had never contributed to the Land Fund. This evidence and the reluctance of the Government of New South Wales to enforce the coal reservation clauses shows that opposition to the company, however unjustified, continually interfered with the implementation of the 1828 agreement. The company was obliged to play its part but only half-hearted support came from the Government. This opposition appears to have been influential within the Legislative Council and it is difficult to discern the extent, if any, to which successive governors shared in hostility towards the company.<sup>75</sup>

The shortage of labour was exacerbated by the lack of harmony between the company and its miners. There were problems with assigned convicts in the 1830s and with immigrant miners in the next decade: they arose from different causes but had similar serious effects on productivity.

Though neglect of work or insubordination could lead to prison or to a whipping and offences were common, it would be wrong to conclude that the convict miners were powerless. Parry had begun by reducing the wages of his assigned labour but Dumaresq decided to introduce money payments for overtime work because many of his skilled men were spending up to half their time working for the people of Newcastle while he faced a desperate labour shortage. To discourage this he threatened to withhold the extra rations of tea, sugar and tobacco of those who did not meet their daily quotas, but this was not necessary. The opportunity to earn two shillings per ton for extra coal had a remarkable effect upon the miners who rapidly established a stockpile of 2,000 tons. Similar incentives were paid to other mine workers and there was a simultaneous improvement in clothing allowances: an extra pair of shoes for the wheelers, flannel instead of cotton shirts and extra woollen trousers for all who worked below ground. Dumaresq wrote a glowing report on the results, declaring 'I have every reason to be satisfied with the proceedings of the parties in charge of this ... undertaking' but the Anglican clergyman in Newcastle, C. P. Wilton, and the police magistrate feared that the possession of money would lead the convicts into drunkenness and crime. Dumaresq argued that there had been a reduction in crime during the year which had elapsed since the introduction of this scheme because the men spent so much more time at work but



Governor Bourke was persuaded to condemn the scheme during his visit in 1836. Whatever its effect upon the crime rate, the withdrawal of money incentives had a startling effect on productivity.<sup>76</sup>

The money payments which His Excellency described as illegal were soon replaced with orders on local storekeepers for flour, tea, sugar, tobacco or clothing to equivalent values at approved rates, but the men were greatly dissatisfied and refused to do more than their allotted tasks. They continued to behave with great propriety, reported Dumaresq, but they would not accept the new system and the stock of coal fell sharply during the winter. Bourke did not change his mind, and as the convicts could not be punished while performing their allotted tasks and manifesting no improper or unbecoming spirit, the company could only appeal for more convict labour in the hope that this would persuade the men to reconsider. They were then receiving a bare ration of 10lbs. of flour and 7lbs. of meat per week so their resistance to the new system must have been as strong as their unity, unless they had been able to supplement their income in other ways.<sup>77</sup>

Apart from the motivation problem, the company found its convict work force rather rebellious: the indiscipline already noted in the penal settlement and in 1829 continued. In 1844 a man who had refused to work was charged with insolence to the overman and was sentenced by the magistrates to ten days of solitary confinement. There was a spate of similar cases during that year and a contemporary commented that:<sup>78</sup>

*the cases under the Master and Servants Act of late have ... been numerous ... The assigned servants of the A.A. Company themselves form the bulk of the prisoners' cases brought before the court; and many are men of very bad character; but it is a subject of congratulation to the public to know that, when arraigned before the bench on serious charges, their punishments never fall short of the offences proved against them.*

Another case involving prisoners working at the colliery elicited an interesting comment on their conditions of service. Six men had received their pay on a Saturday afternoon and proceeded to spend some of it in an hotel. Found guilty of drunken and disorderly behaviour, they received from one to two weeks of solitary confinement and an indignant correspondent of the **Maitland mercury** remarked that 'the prisoners in the service of the A.A. Company are better clothed, housed and fed than many of the immigrants now out of employment'.<sup>79</sup>

TABLE 7<sup>80</sup>  
A.A. COMPANY COLLIERY ESTABLISHMENT, 1839-1847

	Free	Ticket of Leave	Convicts	Total
1839	9	—	95	104
1840	43	—	111	154
1841	63	—	120	183
1842	68	—	84	152
1843	66	9	62	137
1844	66	12	34	112
1845	61	14	17	92
1846	50	36	14	100
1847	52	48	4	104

Such difficulties in controlling the convict coal miners were perhaps to be expected given their background and the forced nature of their employment but in the early



1840s, while the immigrant miners were at loggerheads with the company, they remained the backbone of the labour force. In Captain King's opinion they were far from satisfactory as employees but they were much more obedient and industrious than the immigrants.<sup>81</sup>

From the convict miners' withdrawal of extra work in 1836, the company's path led directly to the introduction of immigrant miners who formed the majority of colliers in the next decade. While considering a supply of British miners as a solution to the scarcity of labour during his superintendency, 'Dumaresq had realised that high costs would not be the only problem - there would be 'the difficulty of controlling them.' It is doubtful however whether anyone foresaw how severe the struggle between the company and its miners would become.<sup>82</sup>

There were thirty seven colliers in the 1840 contingent, a large group from Wales, Cornwall and other English counties, and the remainder from Scotland: these two groups reacted very differently to their new environment. The Welsh, as the majority were designated, struck work soon after arrival and were castigated again and again by Captain King who commented that he had never met 'a more impertinent set of rogues' and that most of them 'had been concerned with the Chartist faction and have brought with them a spirit of insubordination that will be difficult to subdue'. He was convinced that their 'turbulent' behaviour on the voyage and in the colony signified a similar record before immigration and contended that 'their emigration was no doubt a great benefit to the neighbourhood where they worked and lived'. It was his belief that false references had been provided by employers who wished to be rid of these men. However, the Scots were considered efficient miners, the reverse of the 'Welsh' who were 'the very refuse of bad characters, discarded from various collieries, idle, drunken and discontented, suspicious and litigious'. On these judgments the company based its future recruiting policy, seeking to use the industrious Scots as recruiting agents among their own people.<sup>83</sup>

As the conflict between Captain King and his indentured miners continued for several years its causes are worthy of examination. The commissioner believed that these men, who were highly paid by colonial and British standards and also received rations and accommodation, were so rebellious because of their experience at home and because they were encouraged to be difficult by Robert Dawson. The company had dismissed Dawson, its first manager, after he had been suspended by the Colonial Committee who accused him of incompetence. His resentment, King alleged, caused Dawson to impede the company at every opportunity and his visits to Newcastle to attend to his land in the region permitted him to take a continuing interest in the immigrant miners.<sup>84</sup>

The miners had been brought out at the company's expense and had entered indentures to work for seven years in return for one pound per week plus rations and accommodation. They were dissatisfied before leaving Sydney, in consequence, King said, of having been ill-advised by Dawson, and soon after commencing work they struck for a shortened term of indenture and improved conditions. By acting on Dawson's advice and prolonging the strike the miners eventually forced King to concede that they were 'to be paid by the **job** or **piece** and that if they do not choose to work they cannot be forced'.<sup>85</sup>

The company approached the Newcastle Bench to prosecute the leader of the strike, John Griffith, but were at first delayed because of the magistrates' belief that the inclusion of a penalty clause in the indentures had removed the issue from their



jurisdiction. While this was being resolved the strikers wrote to the Attorney General on behalf of four other migrants who were in Newcastle Gaol for breaking their agreements with the company. A party of twenty four left for the interior and those who did not return when called upon to do so were pursued and arrested. When one of these men was gaoled for a month for deserting his employment, the 'Welsh' miners financed an action against King for 'wrongful imprisonment and trespass'.<sup>86</sup>

After two months twelve had still not reported for work and four months later Captain King complained that the immigrant miners would not work, and that it was only the stockpile of 5,000 tons that prevented another strike. The large stock on bank had been produced mainly by the convicts whom King considered troublesome, but more obedient and industrious than the migrants, some of whom did not produce enough coal to pay for their rations. They worked as hewers at two shillings per ton and labourers were employed to wheel the coal away while the colonial-hired, free and ticket-of-leave men received four shillings per ton for getting and wheeling.<sup>87</sup>

It is unfortunate that records relating to the long struggle between the company and its immigrant miners between 1840 and 1844 do not reveal more about the causes of unrest. That there were grievances which are not adequately reflected in Captain King's despatches is suggested by the experience of James Birrell. He was a Scots miner from Fife who immediately attracted the attention of his employers as a very superior man and he was appointed assistant overman to Alexander Brown. He provided names of potential immigrants from his district in mid-1841 and was praised for his efforts but in the following year he became the leader of the dissident miners.<sup>88</sup>

Birrell emerged in this capacity when the company was introducing larger skips in order to reduce the cost of wheeling. King contended that this measure improved the men's earnings as well as saving £2,700 per annum but the miners objected and he reported that, 'notwithstanding the miners had advantage, because it was a mutual one, every opposition was made and combinations were formed'. These were led by Birrell and Grahame, a member of the company's staff who supported the men instead of using his influence for his employer. The 'artful' Birrell was accused of filling his skips in a deceptive fashion so that he would be paid for more coal than he had actually won and was suspended. As his wages were withheld, Birrell summonsed the agent of the company to appear before the Newcastle Police Court for breaching their agreement.<sup>89</sup>

After hearing the evidence the magistrates adjourned the case so that they could consult the Attorney General, but urged Birrell to settle out of court. He refused and was rewarded by full payment for the period of his suspension, but the company threatened further action. Henceforth 'as a punishment' he would be paid at the rate of one pound per week in accordance with his indentures and not at 'the present scale of prices' which enabled the miners to double their earnings. The company also intended to proceed against him for deserting his employment, an offence which could entail a penalty of £50, but there is no record of their having done so.<sup>90</sup>

One year later after several cases under the Masters and Servants Act involving the company's employees, particularly their assigned servants, Birrell sued his employer for non-payment of wages. The court room was crowded with colliers who came to hear that particular case, an indication that Birrell had the support of many of his colleagues and was not simply recalcitrant. This time the company did not let the matter rest and Birrell was charged 'with neglecting his employment and disobeying the lawful commands of those placed over him'. He had refused to produce his coal quota on two successive days and was sentenced to a month in Newcastle Gaol.<sup>91</sup>



There were similar prosecutions in 1846 when James Lindsay, another immigrant miner, was sentenced to fourteen days gaol for using abusive language to his superior and a few months later the Tulip case went to the Supreme Court, an indication of the determination and resources of the militant miners. Tulip had not arrived with the first party, but this did not prevent his involvement in the struggle with the company. Arguing that it was obliged to provide him with a reasonable quantity of work for the term of his indentures, Tulip claimed compensation for the work he had not been given. His complaint was that the company had not worked its pits continuously therefore depriving him of paid employment but his suit was rejected by the court because the agreement would not bear this interpretation, 'they could only judge of the agreement by its terms ... and nothing in them warranted the implication contended for'.<sup>92</sup>

The Tulip case seems to have arisen, in part, from the changed position of the company as competition developed and labour became more plentiful, thereby reducing the amount of work available to each miner. The loss of the case merely inflamed the miners further and another prosecution of an immigrant miner for absconding occurred within six months: he too went to gaol.<sup>93</sup>

For its first ten years in coal mining the company had relied almost wholly on convict labour which proved to be effective enough to make the prospect of transferring to free labour unattractive. By utilising payment by results Dumaresq had demonstrated that convict coal miners could be manageable and economic and it was the lack of assigned labour which forced a change in policy. Though highly paid and treated more generously than the letter of the law demanded, ex-convicts showed a reluctance to remain in the mines in the labour-scarce late 1830s and the company turned to immigration.

In its second decade at Newcastle, as prisoners disappeared from the ranks of its miners, Commissioner King had to deal with immigrant labour at its most truculent. There was no union organisation of the type which developed after the gold rushes but ever present were the combinations formed to meet particular situations and revolving around recognised leaders such as Griffith and Birrell. The militancy of these miners was partly the result of their experience in the British coal industry where conflict between the colliery proprietors and their miners was already intense, but they also would have been affected by the experience of migration. Departing from unusually tightly-knit communities, they were subjected to the boredom, sickness and occasional danger of a long sea journey and landed in a strange environment with an obligation to serve an unknown employer for seven years.<sup>94</sup> Added to this there was the difficulty of explaining accurately what conditions would be like, a difficulty sometimes compounded by unscrupulous immigration agents, and the temptations offered in the colony by rival employers created further difficulties. It is not surprising that the management and supply of labour was the company's most pressing problem until other collieries were opened and competition developed.

### **The appearance of competition**

The agreement of 1828 did not confer on the company a legal monopoly of coal mining in New South Wales for the thirty one years from 1830, but it placed would-be competitors in a most disadvantageous position: they would be denied convict labour, they would be prohibited from mining on lands alienated before 1828 and they would be unlikely to obtain government contracts. However, colonial business interests were



prompted to open rival collieries by two related developments, the fuel needs of steamships after 1831 and the high profit potential of the industry in the early 1840s.<sup>95</sup> Naturally the company defended itself against these interlopers by political action in the colony as well as in London and by commercial practices such as the buying of rival property and price manipulation.

Before 1831 J. L. Platt had briefly operated a mine at Iron Bark Hill on the south arm of the Hunter River on land which was granted before the Crown reservation came into force. Parry had seen the coal and correctly discounted it but Dumaresq, believing that a colliery might be developed in association with a gas company, bought the 2,000 acre property for the A.A. Company for £6,000. He wrongly believed that the coal was excellent, correctly assessed the shallowness of the river as an obstacle to water transport, accurately gauged the problem of obtaining and controlling free labour, rightly decided that there was no need to fear competition from this source and spent a large sum on land which he recognised as valueless except as a small dairy farm! Reporting to London, Dumaresq explained that he did not dread competition but he was 'not insensible to the advantage of rendering it impossible'.<sup>96</sup>

Given his opinion of the coal, the possibility of an assured demand for gas making and limited water access, the commissioner's decision becomes explicable, particularly as his colliery was not yet a commercial success, but hindsight permits another verdict: the company was still vainly searching for coal there in the last decade of the century. The idea of purchasing coal properties likely to offer effective competition was revived on several occasions by P. P. King but he did not put it into practice.<sup>97</sup>

Of more significance, perhaps, was the proposal to mine coal discovered in the vicinity of Western Port in Victoria. Charles Swanston, the managing director of the Derwent Bank and the principal supporter of the Port Phillip Association, and others interested in promoting the Bass Strait area, proposed its exploration for use by steamers. The company opposed the plan but Governor Gipps approved it and was supported by colonial opinion. The Secretary of State for the Colonies decided to refer the matter to the Crown Law Officers but his chief adviser James Stephen was pessimistic: 'I fear there is little chance of escape from this improvident bargain'.<sup>98</sup>

To his surprise the Law Officers reported that there was nothing to stop the Government developing other coal mines and that if it wished it could also provide convict labour for use in new mines. This was possible because the 1828 agreement contained a clause permitting the Government to open other collieries and to allocate convict labour to them if the company were to charge an 'exorbitant price' for its coal. As the Marquis of Normandy informed the Secretary of the company:<sup>99</sup>

*although the only circumstances particularly mentioned in the letter and despatch of the 31st July, 1828, as likely to induce the Home Government to interfere with the monopoly of the Company, is the sale of coal at an exorbitant price, yet the power reserved is quite general and might be exercised whenever any circumstances should render it necessary.*

The Secretary of State went on to suggest that, unless the company intended to sell its coal in Port Phillip at no more than the cost of locally produced coal, its price would be considered exorbitant and the Government would permit the development of other mines. Accordingly, Governor Gipps was left to decide whether to permit coal mining in Western Port and he granted permission. However, nothing came of the proposal because the coal seams there were either steeply inclined or too far from a port. Thus,



though defeated in law, the company continued to supply the Port Phillip settlers who were 700 miles from Newcastle.<sup>100</sup>

While this challenge was being decided another threat developed, one nearer to home where there was not the same justification for setting aside the 1828 Agreement. Captain Westmacott, who had a grant on the south coast, applied for the cancellation of a reservation clause in his deeds. The grant had been promised in 1825 but the deeds came later and contained the clause. The Government agreed to withdraw the reservation from this grant and Commissioner King accepted that this was fair, but, fearing that the Governor would allow convict labour to Westmacott, he urged his directors to 'nip the evil in the bud' by intervening at the Colonial Office. In his letter home Gipps suggested that the company, in return for a continued supply of convicts for its mines, should relinquish its monopoly, which was of little advantage to it and of no great disadvantage to the public but which was made 'the frequent theme of reproach to the Government which granted it'.<sup>101</sup>

The company did not take this view and pressed the Colonial Office to uphold its rights. Again Russell referred to the Law Officers and Stephen minuted the correspondence, 'The Law Officers of the Crown have already twice reported their opinion that this claim cannot be sustained'.<sup>102</sup>

During the winter of 1840 coal became scarce in Sydney and prices were raised by the coal merchants to as high as 40s. a ton, though the price at the coal staiths in Newcastle was still only 10s. per ton. In these conditions the Australian Mining Company for the Supply of Coal was established and its directors sought a suitable location for their colliery. That they understood the limited nature of the A.A. Company's rights cannot be doubted, for John Blaxland's estate at Newington was recommended by the directors because it was 'free from any objections as regards the rights and privileges of the Australian Agricultural Company'.<sup>103</sup>

The formation of the new company gave the editor of the **Australian** great satisfaction and he attacked the A.A. Company, asserting that it could not supply half the demand, that its claim to a monopoly was 'preposterous' and that

*distinct opinions have been had from no less than four of the most eminent lawyers in England twelve months since and they have each and all determined in the most unqualified manner, that the clause in the charter referred to is altogether untenable and valueless.*

This was probably an exaggerated reference to the legal opinions given in the Western Port case but it does demonstrate the growing tendency to challenge the company's position.<sup>104</sup>

The Reverend L. E. Threlkeld, who conducted a mission to the aborigines of the Lake Macquarie area from 1825 to 1841, announced the discovery of coal on his grant at Ebenezer in 1834 but he made no attempt to exploit it until 1839. The purchase of Platt's land would have impressed every landholder with a show of coal on his property and Threlkeld was no exception. He wrote to offer his farm, 'on which a good seam of coal crops out', to the company, stressing that it was not affected by the reservation and suggesting that specially designed vessels of shallow draught would open the way to the Sydney market. A postscript explained that fourteen miles of canal were all that was required to link the Hunter River and Sydney Harbour by an inland waterway, thus further enhancing the value of this coal. Curiously the experienced naval officer, King, dismissed the vessels as impracticable and the proposition as unprofitable. However,



he was mistaken and the Ebenezer mine did become an annoying rival.<sup>105</sup>

Reviewing the efforts of his competitors in January 1841, King found little to concern him. The Australian Mining Company was failing, only £7,000 being subscribed for its shares, a sum inadequate for the shaft it had decided to sink on Blaxland's estate where Henderson had vainly searched in 1827. Threlkeld and his neighbours were ruled out by the nature of the entrance to Lake Macquarie and nothing had been accomplished at Port Phillip. Demand was growing and if all the steamers being talked about were to eventuate, they alone would consume more coal than the colliery was producing. With coal selling at Newcastle for 13s. per ton the mine was yielding good profits and only the labour problem remained to be overcome.<sup>106</sup> Yet Captain King was too sanguine, the worsening depression and the development of effective competition would soon cause him to advocate the surrender of the company's privileges on the best available terms.

With borrowed capital, Threlkeld had pushed ahead with his colliery, sending the first cargo to Sydney in May 1841. He was hampered by the shallowness of the entrance to Lake Macquarie which vessels with a draft of more than four feet six inches could not enter, but partially overcame this by using barges to cross the lake and loading coasters lying in the bay at its entrance. Nevertheless, this transport problem would ensure that the Ebenezer mine would never be more than a nuisance to the A.A. Company.<sup>107</sup>

Two further challenges were also developing, one in Moreton Bay and the other at East Maitland. The Moreton Bay case was similar to the situation at Western Port and, fearing that the colonial authorities would approve it, Captain King considered buying the only land through which the mine could be linked to the sea, thereby preventing its exploitation. However, though the application succeeded and the mine opened, King's principal fear, that the right to work coal on the northern coastal rivers of the colony would also be granted was not conceded. Moreover, the Secretary of State for the Colonies would not agree to Governor Gipp's claim to decide on applications of this kind. Lord Stanley was not prepared to leave the company to the mercy of the colonials and reserved that power to himself.<sup>108</sup>

At about this time several mines were opened in the East Maitland area, some for the purpose of supplying the Hunter River Steam Navigation Company. John Eales, a director of this company, had been searching for coal close to the river but it was John Christian who first won the steamship company's contract in mid-1844 by supplying at a price which saved the cost of transport from Newcastle. Several months later, James Brown, who had opened a mine at Four Mile Creek, replaced Christian by reducing to 9s.6d. and the steamship company, taking advantage of competition, called tenders for 4,000 tons of fuel per annum. Brown was successful, securing the contract to deliver at Morpeth at 5s. 11d. per ton and this ensured that the A.A. Company's efforts to protect its rights would fall on him. The loss of such a client as the steamship company and signs of intensifying competition for the Sydney market caused the company to warn all those who were mining land in which the coal had been reserved to desist or face prosecution. Only Brown persisted and the company asked the Colonial Government to enforce the reservation.<sup>109</sup>

The Attorney General's department moved slowly, far too slowly to suit Captain King, who attributed legal delays to antipathy to the company and corrupt civil servants, and it was almost a year before the Supreme Court heard a charge of intrusion against Brown in August 1845. For personal and political reasons, the barrister-politicians, Richard





James Brown, 1816-1894  
*Newcastle Region Public Library*



Windeyer and Robert Lowe, Ms L.C., defended him, possibly without fees. Of course he was guilty and there was little they could do about that, but they attacked the rights of the A.A. Company arguing that the 1828 agreement was contrary to English law. The court rejected these arguments, as the full Supreme Court was to do when Brown sought a retrial, and found the defendant guilty of intruding on the reserves of the Crown. However, the Attorney-General, in introducing the case for the prosecution, had explained that the Crown did not desire punitive measures against the defendant, merely that its rights be upheld, and damages of only one shilling were awarded against him. Moreover, the Attorney General, in denying that the prosecution of Brown was undertaken to benefit the company, emphasised that there was nothing to prevent mines being opened on 1,750,000 acres of land, apart from the company's grant, alienated before 1830.<sup>110</sup>

*The Company ... possessed no more monopoly than any other grantee whose grant had been issued previous to the last twenty years ... and it must be well known to all that large quantities of coal arrived at Sydney from lands with which the Company had nothing to do.*

Thus the trial drew attention to the monopoly, provided critics with a public platform, showed that there were legal ways of evading it and demonstrated that violation of the coal reservation would not lead to heavy penalties. Nor was the specific goal achieved, for Brown was not prevented from mining and continued to supply the Hunter River Steam Navigation Company. In these circumstances it is doubtful if Captain King was wise to press the Government to intervene.

The Brown case was significant because it clarified for the public the company's position in the coal industry. From December 1825, when news of the original proposal first reached Sydney, there had been confusion about the nature of its rights. First there was the three year period of negotiation during which the proposal was changed radically. Then the next three years, from the conclusion of the agreement to the opening of the company's mine, brought no clarification to the colonists, though the company's officers and the Governor had received the text of the agreement. Furthermore neither of the parties to this agreement realised that the British Government still had the power to permit the opening of rival mines until the Crown Law Officers reported on the Western Port application. Even when Captain Westmacott succeeded in having the reservation clause removed from his deeds he did not manage to establish the colliery that would have publicly demonstrated the legality of his position. The development of competition from 1841 assisted the public to a true appreciation of the company's rights and the prosecution of James Brown may be seen as the culmination of this process.<sup>111</sup> It also had a profound effect on the finances of the industry.

The company's first enquiries had suggested that coal mining would be unprofitable until demand grew considerably. Busby had predicted high profits when the company had driven other fuel from the colonial market by selling at 7s.6d. per ton from an unmechanised tunnel mine worked by convicts and producing coal for two shillings per ton but Henderson took a different view. By the time of his inspection, to establish 'the cost of working' and 'the prospects [it] may have if established there', the company was already committed to a more highly capitalised mine. Assuming that the daily rate of



output at the mine was maintained throughout the year, Henderson arrived at a figure of 6,760 tons as 'sales' per annum, apparently not realising that this was almost twice the actual annual production. This total he considered to be too small to allow 'any certain profits' while coal sold at 10s. per ton. Most of the coal was being consumed by the Government which was unlikely to pay more than cost price so the commercial prospects of the mines lay only in the long term.<sup>112</sup>

Coal was selling at 10s. per ton at the Newcastle wharf when the lease of the coal mines was announced, and the company predicted a reduction after it took over the colliery. The Colonial Government did not leave this to chance, and after the conclusion of the 1828 agreement but before it was implemented, the price was reduced to eight shillings per ton in order, it was said, to increase the demand. However, it is difficult to see this reduction as anything but a device for forcing the company to keep its promise and as a safeguard against the abuse of its privileged position. Perhaps, though, it was a sign of Governor Darling's displeasure at the way the negotiations had been conducted and the manner in which his attitude had been misrepresented at home. This reduction was resented by the company which later complained that the low price set by the Government made it difficult to operate the mine profitably.<sup>113</sup>

By 1832 the company estimated its expenditure on the mining venture at £15,000 including the cost of plant, the construction of a wharf, the development of the mine and the costs of operation. With annual sales of about 4,000 tons the cost of production per ton was more than twice the selling price but the company did not seek a general increase until mid-1833 because it wished to stimulate coal consumption 'to lay [a] foundation for future profit'. However, when Governor Bourke accepted a rise of one shilling he warned that he would take action if the company appeared to be exploiting the public, 'for whose benefit the mines were transferred by the Crown to the Company'. By 1836 when output had expanded to over 12,000 tons and a new price of 10s. at the wharf was negotiated, the financial position of the colliery had improved considerably. This was acknowledged by Commissioner King when he informed the 1847 Select Committee that the colliery had worked for the first five years at a loss, 'independently of the loss of the interest of the capital which was expended, before they raised a ton of coal'.<sup>114</sup>

The price of 10s. per ton was maintained for four years until August 1840 when King added three shillings because of the high cost of introducing immigrant labour and the dearth of provisions. He was aware that such a high price was likely to encourage others to search for coal but maintained it and even contemplated another increase in 1842. The cost of production at that time appears to have been about eight shillings per ton, permitting a profit margin of about 62½%. Mainly by introducing a new system of transporting coal from the face to the wharf, King was able to reduce his costs per ton to no more than six shillings in September 1842, increasing the profit margin to over 100%. Though conceding that it might have been prudent to reduce the price to 12s., he contented himself by not proceeding with the contemplated increase. King's primary concern was to maintain the income of the company during the depression:

*it would be prudent perhaps to lower the price: depending, however, as we now do, upon the coal sales to support the agricultural department such a step would be a material loss and therefore I shall not do so unless I see it absolutely necessary for your [the directors'] interests.*



Such a motive may well have been queried by the Colonial Office, which had provided for the opening of rival mines with convict labour, should 'the Company avail themselves of their monopoly to impose an exorbitant price', but it was King's only hope of avoiding heavy losses during the current depression.<sup>116</sup> However, he was risking the appearance of effective competitors and encouraging those who were utilising other fuels. Furthermore when both these developments occurred, he was forced to reduce the price of coal and maintain it at a very low level with consequent heavy losses of revenue.

The series of reductions began in November 1843 when the price fell by two shillings, and a year later there was another one shilling reduction. Two more decreases occurred in February 1845 another brought coal to seven shillings at the end of 1845 and there it remained for the rest of the decade. These reductions were influenced by the depression as well as competition.<sup>117</sup>

The effect of the depression on coal consumption is of great interest, given the usual inelasticity of the demand for coal. The company's output had risen strongly in 1840 and continued to grow until 1843 when there was a fall of about 10,000 tons and there was no recovery until 1846. As the only mine producing a sizeable amount in 1843 was Threlkeld's, which Captain King estimated might produce 4,000 tons per year, coal consumption must have fallen in that year. Shipments from Sydney were 1,235 tons less than in 1842 but this does not account for the size of the fall. It seems likely then, that the reduced sales of this period were not wholly due to competition from rival mines though this did intensify. Firewood appears to have filled a space in the market previously occupied by coal.

From time to time Captain King refers in his correspondence to the growing use of wood as fuel and he believed that some had found its way into the bunkers of the steamers. By late 1843, the price of a load of wood was reported to have fallen from twelve to three shillings and this may be a reflection of its abundance.<sup>118</sup> It appears likely that one of the results of increased unemployment was a multiplication of the number of wood cutters who had to sell for whatever they could obtain.

The Ebenezer mine appears to have shipped about 4,000 tons of coal to Sydney in 1843 and to have increased its output in 1845 to about 6,000 tons. As it suffered from considerably higher freight costs, perhaps three shillings per ton, and the total cost of delivering its coal to the wharf in Sydney was 11s.3d. in the mid-1840s, this was an impressive performance and one that confounded Commissioner King's assessment of the mine. His condemnation of Threlkeld's 'execrable' coal made it difficult for him to explain its success and he appears to have accepted that Sydney householders of the missionary's dissenting religion bought his coal for charitable reasons even when it was being sold at five shillings more than the company's product in the worst depression the colony had known! It seems more likely that this coal, which was mined in larger pieces, was preferred by many householders because it was cleaner and less likely to produce coal dust.<sup>119</sup>

William Brooks also cut into the company's sales by selling coal from his Lochend Colliery on Lake Macquarie at 7s.6d. per ton and by winning the Commissariat contract



for about 1,200 tons per annum. Like Threlkeld, Brooks had tried to sell his land to the company but King considered that it would be necessary to buy four actual or potential coal mines at a cost of £20,000 before he could close down the Lake Macquarie coalfield until demand grew enough to justify its exploitation. His decision to decline was probably also influenced by his knowledge of Threlkeld's difficulties and the likelihood of the property being for sale at this time.<sup>120</sup>

### **The end of monopoly**

By late 1844 Captain King was extremely gloomy about the future. Having already suffered a fall in coal sales of about 33% and witnessed the opening of new mines within reach of the Hunter River and at Moreton Bay, he commented 'coals will be a mere drug ... the monopoly has virtually ceased to exist'. Accordingly he recommended the acceptance of any reasonable offer for surrendering the company's rights under the 1828 agreement because colonial antipathy would prevent its enforcement. He advised that full legal rights over the coal grant would be of far more value than the mines and, though negotiations took more than two years, this was the compromise reached between the company and the Colonial Office.<sup>121</sup>

The company's coal mining department was profitable from about 1836 but the contribution it made to dividends is not easily discerned because of the difficulty of separating its affairs from the agricultural department. Between January 1835, when the first dividend was declared, and the first month of 1842, there were seven dividends, four of 15s. to the end of 1838 and then annual payments of 30s., 35s. and 35s. Dividends were not resumed until 1843 when 15s. was paid but then continued at the 20s. level until 1846. At that stage the directors complained that they had been able to pay only 34% on paid up capital in 22 years and that for ten years they had been unable to pay any dividends.<sup>122</sup> Cultivating the wastelands of Australia had not been very rewarding but it would have been less so had the coal mines not been added to the company's activities as an afterthought.

To ensure that the company, having spent a large amount on establishing a modern mine, was not subjected to competition which might make the project uneconomic, two protective measures were taken by the Colonial Office, a denial of convict labour to rivals and a guarantee that competitors would not be allowed to exploit coal in lands subsequently alienated. The small demand for coal offered a third protection, one that was probably responsible for the company's sole possession of the field for almost a decade but the two artificial measures were less effective. As soon as competition became likely, opposition to the monopoly within the colony began to be manifested and on several occasions the Colonial Government so interpreted the 1828 agreement that the company's rights were more limited than they might have been. When the price of coal was raised in 1840 existing hostility towards the company was reinforced and, as the subsequent history of the industry was to demonstrate, high prices prompted the opening of new mines. By then opposition to the monopoly on theoretical and practical grounds was such that the authorities were unwilling to support it and the company realised that it would only survive in the industry by maintaining coal at a low price.

Powerful forces had been working against the company's enjoyment of its monopoly almost from its inception. The agreement of 1828 was arranged in London, not only without consultation but without effective communication of developments so that all ranks of colonists, including Governor Darling, found it difficult to understand what



was being done. Moreover the Secretary of State was often cast as defender of the rights of the corporation to scarce convict labour and as an opponent of mining in the outer settlements. Thus the monopoly was regarded as a Colonial Office imposition at a time when rule from the United Kingdom was being increasingly challenged. Furthermore the agreement, based upon limitations of trade, was introduced when the *laissez-faire* doctrine was being asserted with great conviction in New South Wales.

Intensifying the problem was the extent to which the governors also were regarded as defenders of the agreement and their opponents used it to belabour them - hence Gipp's cry that the monopoly 'was the frequent theme of reproach to the Government'. Add to this the company's early identification with the Macarthur family and the image of a wealthy British company holding immense acreages of freehold land while the squatters of New South Wales struggled to secure tenure over their runs and the difficulty of defending the monopoly may be appreciated.<sup>123</sup>

A combination of these forces ensured that the attempt to uphold the company's rights in the courts would be difficult. The processes of the law were greatly prolonged, Brown was defended by two able lawyers, Robert Lowe and Richard Windeyer, and his legal costs were partly met by a public subscription. Robert Lowe, as a supporter of *laissez-faire*, of colonial self government and of opposition to the power of the executive, personified these forces. He and Windeyer used the case for political purposes, attacking both the 'monopoly' and the government for supporting it.<sup>124</sup> Given the strength of opposition the 1828 agreement was not likely to last its full term and by 1847 only the details of a settlement were still at issue.

To King's surprise, the Legislative Council's 'land grievance' report had recommended in October 1844, that the monopoly of coal be 'brought up by any inducement', a proposal which he was inclined to accept, particularly if full freehold rights could be obtained over the coal grant. The Brown case strengthened the company's interest in a negotiated surrender of its privileges and though the directors considered a suggestion of £5,000 inadequate they authorised King to accept the best terms he could obtain as a settlement was not expected to occur in London.<sup>125</sup>

Late in 1846 the Secretary of State for the Colonies accepted the company's claim for redemption of the quit rents of the remaining portion of its pastoral land, thereby conferring freehold tenure upon it. From these negotiations, but by a separate decision, the coal agreement was terminated in February 1847, by the Secretary of State, just as his predecessor had arranged it almost twenty years earlier, without consultation with the colony. Commissioner King was the first to hear the news that Lord Grey had made a further concession, agreeing:<sup>126</sup>

*to emancipate the coal grant at Newcastle also, from all conditions appertaining to it, which liberal concessions will give the Company the same power of alienation as they now possess over their agricultural lands, with the understanding however that all existing privileges on both sides be given up. By this arrangement the monopoly of the Company will of course cease (which virtually has been the case for some time past) and with it all claim for compensation.*

The news was received by the Legislative Council on 17 August, 1847, with repeated cheers.<sup>127</sup>