In his 1974 T.S. Eliot lectures, *Tradition* (1981), the sociologist, Edward Shils, writes:

"The contemporary social sciences have a long tradition which reaches back into Graeco-Roman antiquity, but they owe most to the tradition of the Enlightenment. From the Enlightenment, they have received their skeptical attitude towards tradition and a conception of society which leaves little place for it."\(^1\)

Against this attitude, Shils claims that no understanding of society can ignore the importance of tradition in human life, the grip of the past upon the present. The past, Shils argues, reaches into the present and affects meaningful conduct. "Tradition enters into the constitution of meaningful conduct by defining its end and standards, and even its means."\(^2\)

In a religious context, however, tradition is often used for the code of regulations and the sayings or teachings, written and unwritten, handed down within a religion. Yet even in this context, it is important to be aware of the social importance attaching to tradition, particularly at any time of widespread change. Tradition, in this social sense, helps to shape the context and terms of the discussion about change. An example, drawn from the subject of this paper, illustrates the point. The appointment of colonial bishops in N.S.W. by Letters Patent of the Crown established a fact of life in the colony which directly affected the way in which these bishops approached the question of change in matters such as church government.

Tradition can also serve as the basis of an argument, the appeal to tradition, in which case it becomes a kind of rhetoric.\(^3\) The appeal to the

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2. *op. cit.*, p.33
past, to tradition, can be part of an argument for the maintenance of the status quo — this is the way we have always done it, and so we should continue to do it this way — or it can be used as part of an argument for innovation or change — this is the way we have always done it, but our present circumstances are different or novel and we must act differently in order to maintain the underlying truth or principle which our previous policy was designed to maintain.

In mid-nineteenth century N.S.W. there were many examples of these two different ways of appealing to tradition. Many wished to see new ways established in the new land because they did not like the old ways or what they represented. But there were also those who longed for the familiar and who were filled with nostalgia.

In such a circumstance, nostalgia was likely to lead to conservatism and even to attempts to re-create the homeland in the new place. It was nostalgia for example which affected Thomas Mort in 1856, when he finalised a financial arrangement which eventually provided him with extensive property at Bodalla on the southern coast, property which was advertised in the sale publicity as "Mr. Hawdon's Devonshire of the South Coast". When in the early 1860's Mort began to develop his Bodalla estate he imported, somewhat inappropriately, varieties of English grasses. A little later in the century, Emilie Heron described Bodalla in the following terms:

Amid the range that nears the southern coast  
Bodalla lies — a smiling valley green;  
So green, that to home-loving eyes it seems  
E'en like a quiet dream of England hid  
And nestled in the wild Australian hills.  
There gleam the still blue lake and winding stream,  
The golden corn-fields and the sunny slope;  
While here and there are cottage homes and farms,  
With browsing herds in clover pastures fed;  
And furrow'd land o'er which the plough has pass'd,  
In winter readiness for English seeds;

That here, unconscious of an alien soil,  
With old-world freshness still will spring and grow.4

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In the middle of the 19th century in New South Wales there were certainly some who felt nostalgia. England was referred to by many as "home". But also, strikingly and dramatically in the 1850s there was a mood of innovation and change. This cluster of sentiments is widely documented in diaries, letters, art, literature, and songs. It is not peculiar to New South Wales. They are universal human concerns as to how the past makes its impact upon the present for greater or lesser change.

New South Wales in the Middle of the Nineteenth Century

The question of the proper relationship between the Church and the State was the intersecting point for two distinct but interrelated sets of concerns. On the one hand, the government had a continuing interest in the question of what kind of society New South Wales was to become in the light of what it had been. Beginning with an omnipotent Governor, political authority had been widened to include an Executive Council, a Legislative Council, and then in the 1850s, a representative Legislative Assembly. On the other hand, the Church concern had begun as a chaplaincy, progressed to an archdeaconry, then a diocese and then finally, to a number of dioceses. In the previous seventy years, there had been considerable activity in the civil and ecclesiastical life of the colony, but it is important to remind ourselves, when looking back from the twentieth century, that these two areas were closely and intimately related and legally intertwined.  


On the 30th September 1833 Governor Richard Bourke wrote to Lord Stanley at the colonial office on the matter of government support for the churches in the colony. He suggested a scheme of state aid for the Church of England, the Church of Scotland, the Methodists and the Roman Catholic churches. He concluded his dispatch in terms which reflect the inter-meshing of civil and ecclesiastical interests.

"I cannot conclude this subject without expressing a hope, amounting to some degree of confidence, that, in laying the foundations of the Christian religion in this young and rising colony by equal encouragement held out to its professors in their several Churches, the people of these different persuasions will be united together in our bond of peace, and taught to look up to the government as their common protector and friend, and that thus there will be secured to the State good subjects and to Society good men."

In the middle of the nineteenth century, however, the relationship between the Church of England in the colony and the State was set to change. During the eighteen forties increasing doubts arose in the minds of both churchmen and politicians as to the established position of the Church of England. The bishops, particularly Broughton, increasingly felt that the existing legal position of the church prevented the proper development of church life. Further evidence of difficulties was to follow.

In 1850 Broughton called the bishops of South Australia, Victoria, Tasmania, Newcastle, and New Zealand together for a conference at which they discussed this very important matter. Church-state relations had become an issue in a number of areas of colonial life: secondary education, the founding of The University of Sydney, and the authority of bishops to discipline clergy. In 1859, the Dioceses of Sydney and Newcastle petitioned the Legislative Council for a bill to enable them to call synods and manage their affairs. In 1862 the Legislative Assembly passed the Grants for Public Worship Prohibition Act bringing to an end the effect of Governor Bourke's legislation. In 1865, the Diocese of Sydney petitioned for a Synod Bill and in 1866, the Dioceses of Sydney and Newcastle petitioned for a bill to manage the property of the Church of England in each of their dioceses.

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The crucial decade of the 1850s began with Broughton's conference with his fellow bishops and ended with the Church of England Synods Bill being withdrawn from the Legislative Assembly. In this paper, these two events will be the main areas of attention. For by examining them we bring into focus not only two significant developments in the life of the church, but also the role of tradition in the thought of two very different bishops, William Grant Broughton and Frederic Barker.

**Broughton and the Bishops' Meeting**

Broughton invited his fellow colonial bishops to come to a meeting in Sydney in 1850. Six took part in the meeting, Short from Adelaide, Selwyn from New Zealand, Nixon from Tasmania, Tyrrell from Newcastle, Perry from Melbourne and Broughton himself, who was the host. They began the meeting on the 2nd of October, 1850 and immediately discussed the question of whether their meeting could be called a Synod, and if it constituted an offence against the royal supremacy. They concluded that they were just meeting together. They occupied themselves with an agenda which began with the question of the authority of the church in the colonies including such matters as who might attend synods, and issues of discipline for both clerical and lay members of the church. These constitutional questions occupied several weeks of the conference and resulted in resolutions on these and other matters. The resolutions were read to an assembly of the clergy of Sydney and then printed. While the bishops were in Sydney a public meeting was held on the 29th of October in order to found a mission board to evangelise the Pacific region.

After the meeting, Broughton wrote to the Archbishop of Canterbury, J.B. Sumner, to seek some form of church constitution for the Australian church. W.E. Gladstone, in the meantime, in the English parliament, had made an attempt to amend the Australian Colonies bill in order to free the

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9 See the report in *The Sydney Morning Herald*, 2nd November, 1850.
bishops so that they could proceed to some local form of church government. Broughton had corresponded with him on this matter.

After the conference, the Australian bishops seemed very much to go their own way. When Broughton received Archbishop Sumner's reply, which he found to be ineffectual and disappointing, he resolved on calling a Diocesan assembly. He abandoned any idea of calling a Synod, but rather settled for a meeting of the clergy to petition the Queen. He also sought to have consultations with the laity through parish vestry meetings which he asked to consider the 1850 Bishops' Conference resolutions.

In general the laity were suspicious of the bishops' resolutions and of Broughton's plans for a synod. At a meeting called by Lieutenant Richard Sadleir on the 5th of May at the Royal Hotel in Sydney, a counter petition to the Crown to that of Bishop Broughton was drafted and a committee appointed to organize a public meeting to establish the petition to be sent to the Queen. At this meeting in the Royal Hotel that nostalgic South Coast farmer Thomas Mort of Bodalla was heard to say, "Let it not be forgotten . . . that they had the power to stop the supplies. What fearful consequences to the whole Church would ensure if the clergy was left unpaid."

**Tradition in Broughton's Thought**

There are three focus points in Broughton's use of tradition: his conception of the Church; his belief in the division of power and authority; and his attitude towards the royal supremacy.

In his farewell address in 1853, Broughton looked back to the conference of 1850, and spoke of his purposes. "My design was to solicit in the proper quarters the removal of those restrictions by which our church is at present inhibited from the free exercise of self-guidance with which she was originally endowed; that there might no longer exist obstacle to the meeting of the Bishop, clergy and laity in a lawful assembly, to consult and make regulations for the management of the affairs of the Church within this

10 Shaw, *op. cit.*, pp. 252f.
Diocese."\(^{12}\) Clearly, in Broughton's opinion, the Church of England had these original powers even though the structure to implement them might differ according to particular circumstances.

In a sermon on Christ and the Church Broughton avowed his belief that the Church of England "furnishes a correct and lively image of the Church, according to the will and purpose of Christ...".\(^{13}\) He supported this belief by saying that the Church of England provides the means of grace effectually to all who seek them, and it teaches all things that are necessary to eternal salvation in its ordinances, doctrines, sacraments, and in its ministry. It is not surprising that Broughton envisaged the development of an Anglican communion which would comprehend all the colonial churches and be a testimony to the true faith of Christ as expressed in the Church of England. This reveals not only a whole hearted commitment to the Church of England, its doctrines and its forms, but also a visionary flexibility which accepted and looked towards a diversity of Anglican expression in different parts of the world.

In his treatment of the question of power and authority in the Church, Broughton shows a striking flexibility in his deployment of arguments from tradition. He told his fellow bishops that there was ancient precedent, or tradition, against the interference of one metropolitan bishop in the affairs of another metropolitan bishop. He used this appeal to tradition in seeking to persuade his fellow bishops that the Archbishop of Canterbury should not interfere in the affairs of the colonial church. Ancient precedent from the early church was his argument. On the other hand, the precedents set by the Church of England did not apply, in his view, when it came to the power of colonial bishops, and their right to call synods. "If we ask more power than the Church of England as at present regulated enjoys, we ask no more than every other Denomination in the colony possesses."\(^{14}\)

When the bishops considered the American precedent of a single convention of bishops, clergy, and laity, where legislative power was

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13 *op. cit*, p.42.
14 Shaw *op. cit*. p.236.
exercised in common, Broughton dismissed it on the pragmatic grounds that it did not work. According to Perry's diary of the conference, now in St. Paul's Cathedral Melbourne, Broughton delivered himself of a major speech on the subject of the role of the laity in the government of the church. He argued for a distinction between the Queen's supremacy and the people's sovereignty. "The supremacy in force at home has here no legal machinery: ergo is in abeyance. The American church does not work satisfactorily — elements of discord, self-will, and of the feelings of Diotrophes."

So here in the course of one discussion in the Conference with the bishops, Broughton is found distinguishing between traditions. An ancient precedent is to be followed; English precedent is said not to be binding because colonial circumstances in this matter were different; the American episcopal precedent was not to be followed because it did not work. Broughton shows a similar flexibility in dealing with the question of the royal supremacy. He persuaded his fellow bishops at the conference that they should not seek a clarification from England of the meaning of royal supremacy in the colony but rather that they should list their embarrassments and difficulties and require from the English government powers to enable them to control their diocese, to divide them in order to create new dioceses, and to appoint archdeacons. Broughton appears to have a somewhat pragmatic approach to the question of royal supremacy. He felt that in the fourth century, Constantine's use of such supremacy had been good for the church in dealing with the Donatist schism. However, "in the colonial portion of the church, the Crown does not strive in support of the church . . . and scarcely can think it equitable to retain over a colonial church a supremacy". In other words, the royal supremacy is defensible when it functions for the good of the church. Supreme authority is "vested in the Crown only so long as the crown represented the whole Church". The tradition in English church life is not to be confused with the Christian tradition which Anglicanism represents.

Broughton's actions after the 1850 bishops' conference demonstrate his discriminating use of the appeal to tradition. Some traditions are fundamental, others of only secondary significance. Broughton proposed to his diocesan conference, in line with the published conclusions of the bishops' conference, that the laity should sit in simultaneous conference with

15 ibid.
16 Shaw, _op. cit._ p.251.
the meeting of the clergy. Opposition in the conference forced him to compromise, but he would not compromise on two points. The bishop must be a real, separate house, with the power of veto. He would not accept as a bishop, being relegated to the role of a mere chairman with a casting vote. Secondly, he insisted, there is an essential distinction between clergy and laity, and this should not be obliterated by requiring the two orders to sit and debate on all occasions as one house. On a broader canvass, Broughton regarded the province as the essential element of church organisation and thus he advocated a significant role for the Metropolitan of the Province. Other matters of church government are, by and large, a question of the practical working of the church in particular circumstances.

All of this demonstrates how discriminating Broughton was in his use of tradition. He was fully aware of the different elements that make up the tradition of the church and he discerned that some elements are of more enduring value or more relevant in the colony than others.

While in certain restricted areas his policy might be viewed as conservative, in other areas his understanding of tradition guides his policy in innovative directions, according to the circumstances of the colony. Indeed, by the way in which he uses tradition in these arguments, he shows himself to be very much a colonial bishop without nostalgia for the old country, focussed on New South Wales, rather than pursuing his episcopal vocation as an expatriate Englishman.

Bishop Barker at the End of the Decade

Frederic Barker came to Sydney on the initiative of Archbishop Sumner. Barker had gained his evangelicalism from Charles Simeon and was in the terms of Ken Cable a "plain evangelical". The nomination came not from Broughton's Tractarian friends in England because Grey had replaced the Duke of Newcastle at the Colonial Office. Grey turned to the evangelicals, and Sumner had seen the opportunity to make a suggestion of his own. Barker was consecrated in November, 1854 and arrived in Sydney in May, 1855.

17 Shaw, op. cit., p.257.
18 S. Judd and K. Cable, Sydney Anglicans (Sydney 1987), p.70.
In 1858 Barker decided to call a conference in order to consult with members of the diocese about the possibility of promoting a bill through the Legislative Council in co-operation with the diocese of Newcastle to give the church power to govern its own affairs. He circulated all the parishes and summoned the Conference of Clergy and Laity which met on the 24th of November, 1858. Fifty-two clergy and seventy lay people turned up and met until the 7th of December when they agreed to the appointment of a Conference Committee and the terms of a Draft Bill. This Draft Bill became the subject of a joint approach to the Legislative Council by Tyrrell and Barker and the people of the dioceses of Newcastle and Sydney.

Leave was given to introduce into the Legislative Council a private bill entitled "The Church of England Synods Bill" on the 2nd of June, 1859. Four months later in October, a select committee was appointed and that committee made its report back to the Legislative Council on 23rd of May, 1860. The third reading of the bill and its successful passage through the Legislative Council took place on 14th of March, 1861. It was then passed to the Legislative Assembly from where, however, it was withdrawn on the initiative of the Conference Committee which had been charged with overseeing the progress of the Bill. It was withdrawn because the Diocese of Newcastle did not like certain changes which had been introduced in the Legislative Council; Newcastle had indicated that they would then object to the bill in its revised terms by petition to the Legislative Assembly.

The Select Committee of the Legislative Council produced a comprehensive report. Over a period of seven months, they met on thirty-four occasions and produced a report of 228 single spaced printed pages of evidence and resolutions. The bill was amended in several respects. The distinction between lay and clerical members was diminished and lay people were more systematically referred to as representatives in the Synod. The notion of their being three distinct orders of bishop, clergy and lay members was systematically eliminated from the bill. The resolutions, rules and ordinances of synod were subject to assent by the bishop within one month of their being passed in the Synod. On the question of discipline, the clergy

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19 The proceedings of this conference are provided as Appendix A to the evidence given by Barker to the Legislative Council Select Committee; *Journal of the Legislative Council of New South Wales, Session 1859-60* Vol. V part 1, Sydney, 1860, pp. 731-767. [Hereafter *J.L.C.*]

20 See *Sydney Morning Herald* April 13, 1861.
were subject only to sanctions of suspension or dispossession of licence or office and of the rights and emoluments attaching to their licence or office. The tribunal was to be presided over by a barrister of not less than five years standing and that only in those cases involving a question of doctrine or the ritual of the Church, would the tribunal, apart from the President, consist entirely of clergy. Almost all the amendments to the bill concerned the office and position of the bishop and the division of the Church into three orders of bishop, clergy and laity.

Barker was called to give evidence before the Select Committee of the Legislative Council on three separate days; two full days early in the life of the Select Committee and one day right at the end of its life. His evidence, together with a 36 page appendix giving the details of the diocesan Conference, represents roughly one-third of the evidence included in the Select Committee's report. The Committee asked the bishop about discipline, property, the role and authority of the bishop, and the reasons why the bill was regarded as necessary and expedient.

A great deal of Barker's evidence is concerned with pointing out that the provisions that the bill makes did not offend against the law of the land nor disadvantage other citizens in New South Wales. Its sanctions affected only office bearers and clergy in the Church of England. The final report of the Committee written by the chairman, Deas Thomson, said on this point,

"Your Committee are satisfied that the promoters of the bill had no intention of seeking, by a measure of this kind, to confer upon the Church of England, any dominancy, over the other churches of the colony, and that the bill, neither in its original nor amended form, can possibly have any such effect."21

The Committee's report was comprehensive and detailed. One year later, in his charge to the clergy of the Diocese of Sydney, Barker acknowledged the quality of the Committee's recommendation and described the passage of the bill through the Legislative Council as "most successful".22

Barker's evidence is very much preoccupied with the bill in its legal and social implications. In that sense, a good deal of his argument has to do with

22 Charge to the Clergy of the Diocese of Sydney, 1862. p.20.
precedent. In using this evidence to determine his attitude towards, and appeal to, tradition, one needs to bear that particular context in mind. Nonetheless, even in this context, the general direction in Barker's approach is not dissimilar from those he took elsewhere.

Barker appeals to tradition in a number of ways, but most commonly as precedent. That is to say, he appeals to the past in order to support its maintenance or replication in the present. This sort of appeal may reflect the legislative context of this material, but in fact, it also reflects Barker's own personal disposition. This point can be demonstrated by considering the way he handles three important issues which were under discussion at the time: the Queen's supremacy; the reasons why the Church sought to establish its means of government by legislation rather than by way of a voluntary compact between its members as some other churches had done; the reasons why bishops should have separate rights and authority from those put forward in the proposed synods.

On the question of the Queen's supremacy, Barker was questioned on the 2nd of December, 1859 by the Committee. He began by referring to the resolution of the 1850 conference of the bishops which highlighted the Queen's supremacy as an inhibition to synodical action. He states his position as follows: "my own view of my obligations to Her Majesty would prevent me from doing anything which would appear to be a violation of the act of submission of the clergy or of supremacy." Barker explicitly affirms the resolutions of the Bishops' Conference on this point: "Had I been present, I should have signed that resolution, as perfectly concurring in it. I also concur in the second resolution. I am of opinion that this Colony, being part of Her Majesty's dominions, the wording of the Second Canon of 1603 prevents me from doing anything which could be construed into a violation of the Act of the Submission of the Clergy, or of the Oath of Supremacy." This statement is very similar to Barker's utterance in his primary Metropolitan Visitation of the dioceses of Tasmania, Adelaide, Melbourne, and Newcastle in 1860. "We are one with the Church of England, and do not so properly speak of our relation to her as of our identity with her. These colonies are a part of the Queen's dominions

24  ibid
and we form an integral part of that Church of which Her Majesty is the supreme governor."25

When Barker explained why legislation was necessary rather than a mutual compact, he stated that his reasons had to do with discipline and continuity. A compact would be insufficient "because it would only be obligatory on the bishop and clergy so long as they chose to abide by the terms of it. It would not bind the successor of the bishop, and it would not bind a person who was not a conscientious man, that is, a clergyman finding that it would be to his interest to withdraw from such a voluntary compact, and should he chose to do so, there would be no power of restraining him or of punishing him for doing so. That would also be the case with parishes. Parishes might refuse to join, and there would be no remedy against them. We should only have authority over them so far as they chose to submit to it and bring themselves within the terms of it."26 Here Barker is closely reflecting the English situation, where ecclesiastical law was part of the law of the land. He also shows the disposition of the English evangelical churchmen to maintain the connection of the Church with the State. Barker had consulted Henry Venn who was clearly of that mind.27 The problem was, of course, that in England, ecclesiastical law, including the canons which dealt with the discipline of clergy, had the same force as Crown law. The decisions of the ecclesiastical courts could be imposed because they were part of the law of the land. What Barker sought for the colonial church was a legislative force for such church laws as dealt with clerical discipline. He also wanted legislative power to compel the inclusion of parishes in the diocesan structure. In the end, this traditional transposition of ecclesiastical law from the English scene was be amended out of the Bill. The vehicle or sanction for discipline was transformed into dispossession of property and temporal benefits, a method entirely in line with the understanding of the church as a voluntary association at law.

27 S. Judd and K. Cable, Sydney Anglicans, p.88. See also T.E. Yates, Venn and Victorian Bishops Abroad (London 1978), for a general picture of the role of Henry Venn, and p.93 for particular comment on Barker.
On the matter of whether or not the bishops had separate rights and authorities, Barker took a very strong line. He claimed, under fairly close cross examination from the members of the Select Committee, that the bishop has co-ordinate authority with the Synod. He said that he had no capacity to yield on that point. He saw the Bill as a way by which "the bishop divests himself of that apparently unlimited authority which at present he has. Instead of adding to the bishop's power, I think it will be a useful and very considerable diminution of it." When asked if the Bill was in accordance with the Constitution of the Church of England, Barker replied, "Undoubtedly, it is. Otherwise, the bishop would cease to govern the Church. The constitution of the Church of England is episcopal. It supposes that the bishop governs, and that the clergy, according to their ordination vows, obey; any other arrangement than this, by which the bishop would be compelled to assent to that which the clergy and laity agreed to, and he did not agree to, would be to reverse the principle of episcopal government. It would be to require that the bishop should be the governed party." Barker argues that what is at stake here is not so much a veto as a necessary concurrence of the three bodies of which the Synod is composed, that is to say, bishop, clergy, and laity.

His position is strikingly decisive. A member of the Select Committee asked the bishop, "If this bill was so far altered as to give power to a majority of the clergy to make rules and orders, by which the bishop should be bound, would that not be inconsistent with his office as bishop?" Barker replied, "I conceive so. I do not conceive I have the power, if I had the will, to place myself in a position to be governed by a majority of the clergy and laity in diocesan synod assembled. I should consider such a position to be inconsistent with the office of bishop of the Church of England." Indeed, he went so far as to say that in a compact, where the bishop did not have the absolute power which he insists on, then the bishop and his clergy and laity may just as well become Presbyterians. Indeed, he affirms quite precisely, that this is a "fundamental principle — a distinguishing principle of the Church of England".

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30 ibid.
31 ibid.
In arguing this case, Barker gets himself into a little difficulty with the committee members in demonstrating that the bishop in the Church of England has this kind of a jurisdictional authority. It could not be shown in regard to the position of the bishops in the House of Lords and Barker was forced to appeal lamely to the example of the Convocations. The matter in question was obviously one of considerable importance both for the Committee and for Barker. The opponents of the Bill similarly regarded it as important and the major amendments made by the Committee to the Bill reflect this concern about the role and authority of the bishop in relation to the clergy, the laity and the Synod.

Barker was recalled for further evidence before the Committee in order that the Committee could "ascertain with greater precision, the authorities on which the claim of the bishop to be regarded as a separate order or an estate in the Church is founded, so as to entitle him to co-ordinate authority with the clergy and laity in the proposed synod." Barker came prepared. He recited evidence from the New Testament, then from the early Church fathers, Clement and Ignatius. He claimed that the genuine Ignatian letters showed that the bishop had authority and jurisdiction over the presbyters and deacons and furthermore, that those orders do not have authority to administer the sacrament without the authority of the bishop. Barker then referred to various English authorities, Dean Comber, Bishop Sparrow, Bingham's *Antiquities of the Christian Church*, Bishop Hall of Norwich, as well as the Reformed Theologian, Abraham Scultetus.

Under cross examination Barker admitted that the views which he was defending were controverted by some within the Church of England but he claimed that the great majority in the Church of England held the view which he had propounded. During the course of this final appearance before the Committee, Barker referred on a number of occasions to "the divine right of bishops" and he clearly took a strong view about this. His appeal was to what he regarded as a consistent and continuing principle of church life which must operate in all times and in all circumstances. There is to be no transformation of tradition in this matter. Tradition, as Barker presents it, in this matter, operates as an entirely consistent and conservative line through time and circumstance. The precedent is fundamental and cannot be changed.

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For Barker, episcopal authority in the colonial Church of England is supported by English precedent, but the same cannot be said of his attitude towards the existence or otherwise of Diocesan Synods. He claims in response to a question early in his appearance before the Committee that Diocesan Synods appeared in the early state of the Church "from such a necessity as exists now among ourselves". In England, they had ceased to be of any use. The Bishop of Exeter, he noted, had called one together but many of his clergy refused to come. "The Diocesan Synod appeared to me to be unnecessary in England, for the same reason that they are necessary here. They are necessary here because we have no ecclesiastical law; they are unnecessary in England because questions connected with the Church's establishment-patronage, the relation of the clergy to the bishop and to each other, and every other question — is a subject of law, can be brought into duly constituted courts, can be tried, and the decision of the court can be enforced. The state of things here is entirely different; and I do not think we can commence in any other way in this colony than by a mutual compact to which the force of law should be given."34

For similar reasons, Barker preferred the bill to be a private one. In England, he said, such a bill would undoubtedly be a public bill because it would affect the public established position of the Church of England and the law of the land. However, here in the colony of New South Wales, it should be a private bill because it only affects the rights of a particular portion of the inhabitants.

The following year, 1851, he made the same point in his Metropolitan Visitation charge. "The establishment of the Church of England is not a necessary condition of its being."35 Yet in 1862, in his charge to the clergy of the Diocese of Sydney he said, "If we believe it to be the duty of a state to maintain the truth and religion, we can have no doubt that it is the duty of the state to maintain the Church of England."36 This latter statement was made in a context of discussion about whether or not the state should continue to pay the clergy, which might help to explain its blunt character. He also claimed, quite inaccurately, that the majority of educated

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34 ibid.
35 op. cit. p.10.
36 op. cit. p.10.
and influential persons in this colony were not in favor of the abolition of state aid. In the same charge, he continued in his view that "the sanction of the legislature is necessary for the introduction of synodical action."

While Barker takes such a strong and high view of the jurisdictional authority of the bishop, he nonetheless is not totally wedded to the idea that the Church is necessarily made up of three orders of bishop, clergy and laity. That threefold division was amended out of the Bill by the Select Committee. Barker, however, continued to support the amended Bill, while Tyrrell and meetings of clergy and laity in the diocese of Newcastle did not. The issue between them was that, on the one hand, Barker was committed to the authority of the Bishop in the constitutional arrangements of the Church over against both laity and clergy, whereas, Tyrrell and Newcastle were committed to a particular kind of ecclesiology which had to be embodied in the Bill. One might say that for Tyrrell and Newcastle, the precise ecclesiology was more important than the legislative backing for the holding of synods. For Barker, legislative power for the holding of synods was more important than this particular point of ecclesiology. If one views that difference of judgement from the point of view of tradition, then what is principally at stake for Barker in the legislative battle is the continuity of the English tradition of the relationship between Church and State rather than the tradition of the threefold division of the Church into bishop, clergy and laity. While Barker claims that the established position of the Church of England is not essential to its being, nonetheless the legislative support of the rules of the Church is more important than the recognition of a particular form of ecclesiology. No doubt that emphasis was reinforced when he returned to England and had further consultation with Henry Venn and the evangelicals. Later, in 1865, he sought to introduce a narrowly diocesan


38 op. cit. p.22.
Canadian model into New South Wales but without success. In the end, he had to accept a compact which gained the approval of the legislation simply as a means of controlling the property of the Church of England. It is probably not unfair to say that this particular attachment by Barker to a legislative basis for synodical government in the Church of England in New South Wales was the reason for the delays in obtaining any kind of legal framework for synodical government in the Diocese of Sydney.

Conclusions

In comparing Barker and Broughton, on the way in which tradition operated in their arguments about Church government and particularly the relations between Church and State, it is clear that Broughton has a discernibly different kind of ecclesiology from Barker. He was much more flexible in his approach to the question of Church-State relations. Broughton was able to envisage a range of intellectual defenses for a totally different system of Church-State relations from that which existed in England. He has an intellectual rationale for the different form which the royal supremacy might take in New South Wales from the established order in England. Baker, on the other hand, was consistently and narrowly conservative in an English direction on the question of Church-State relations in the context of synodical government. His approach might not be called nostalgic but he could never be accused of an innovative or transforming use of tradition in this area. Thus at the beginning of his episcopate, Barker showed himself to be significantly more conservative in his use of the English tradition in the matter of Church-State relations than his predecessor had been.

In one sense Broughton had a more "traditional" or conservative ecclesiology than Barker. He was not as Tractarian as some have suggested, but he was securely committed to the importance and distinctiveness of episcopacy in the government of the church. Barker, of course, could allow a greater role for lay members of the church but saw a greater distinction between church and society and had a more domestically ecclesial conception of the church's mission. Broughton was more of an old fashioned "high

39 The Church of England Chronicle, 21st February, 1865. A Bill was presented to the Legislative Council in 1865. It was supported by the "low church" bishop Musuc Thomas of Goulburn and opposed by Tyrrell. See J.L.C., Vol. 10.
churchman" than this and saw the church much more necessarily committed in its mission to society at large.

When Broughton died in England, he was acknowledged in New South Wales by a variety of different types of people. Chief Justice Alfred Stephens chose to call him a patriot, one who set his mind to the common good in the colony of New South Wales. Broughton, of course, also set his mind to the missionary enterprise in the Pacific. Of Bishop Barker, Ken Cable writes: "Barker, in the period of responsible government by popular politicians (for whom he had little but contempt) kept aloof from affairs of state. His purpose was essentially moral and religious. His difficulty was to create a solid popular base in a rapidly expanding and socially mobile colony."

Our examination of the way in which Broughton and Barker used tradition in the matter of Church-State relations, shows that Broughton had the intellectual disposition and capacity to deal positively and creatively with Church-State relations whereas Barker was constrained by a more precedent shaped traditionality and lacked the religious motivation to involve himself in public affairs in the way in which his predecessor had done. The result was that Barker took his Diocese decisively away from the public arena which his predecessor had so vigorously occupied.

40 See Shaw, op. cit. p.274.
41 See Judd and Cable, op. cit. p.71.