

# THE AUTHORITY OF THE TRUST DEED

## A Yorkshire Perspective

In a series of stimulating lectures<sup>1</sup> delivered to Yorkshire Baptist ministers in the spring of 1986, Principal Brian Haymes raised the question of Baptist authority and suggested it was threefold:

First, all true and ultimate authority is Christ's. He is Lord and none shall qualify or share his Lordship. He is not simply head of the Church, he is Lord, and all authority in heaven and on earth has been given to him.

Second, the Bible is authoritative, significantly more so than preacher, pastor or pope. It has also been understood that personal or corporate claims to receive direct divine illumination by the Holy Spirit have to be brought to the test, not least of Scripture.

Third, when it comes to the shape, direction and ordering of the life of the local company of believers then, as the Declaration of Principle has it, 'each Church has liberty, under the guidance of the Holy Spirit, to interpret and administer His [Christ's] laws'.<sup>2</sup>

Within the third category, that of the authority of the local church, the common Baptist understanding is that such authority is worked out by the local company of believers, the church members. They assemble together in an atmosphere of worship and prayer, to discern the mind of Christ and, by discussing, debating, listening and then deciding together, the authority of Christ is realised within the local community. This ideal view has, of course, to face the hurdles of the individuals who make up the local church. They may not all come to a church meeting in quite the same spirit of worship and determination to know the will of Christ. They can have different temperaments; differing experiences of the Grace of God upon their lives; different levels of education; different conceptions of the life and mission of the church etc.; so that, some argue, the New Testament concept cannot always be realised.

Sometimes, too, and less often remarked upon except in a crisis of significant proportions (perhaps involving the appointment, re-appointment or dismissal of a minister; or the essence and style of the church; or whether church meetings themselves are a 'good thing'; or does the church really wish to be denominated 'Baptist?'), appeal is made to another authority from the past. This authority has the force of law behind it, at least theoretically, and is one which most of the church members have never seen, let alone read. I refer to the Trust Deed!

Brian Haymes is right to stress his three prime areas of authority for Baptists, but it is worth noting, and in this essay I explore, another authority, which often gives validity to the church meeting and which is a fixed point imposed from the past and, like the Holy Scriptures, unchangeable in the words, though interpretation may be another issue!

The authority of the Trust Deeds exists because of our system of law and the need for a 'legal personality' to hold property. A community of people changing from year to year and generation to generation cannot easily own buildings and control investments, so the property of the church is owned and conveyed 'upon trust' to certain individuals, or more commonly today, a Trust

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Corporation. The Trustees act as the 'legal personality' of the local church, ensuring the continuity of the Trust and the fulfilment of its conditions, whilst trying, in a Baptist setting, to act by the wishes of the church meeting. An understanding of all that is not the task of the church historian, but the lawyer. Here I want to accept the existence of trust deeds and to note the changing pattern of authority laid down within them over nearly three hundred years in one part of the country, Yorkshire.

The Trust Deed is one piece of the past which is, willy-nilly, imposed on the succeeding generations. For, though we might adapt our buildings, change our styles of mission, worship in different ways and live together in different eras, short of starting afresh on new ground or adopting a 'model trust', to which I shall come in due course, we are stuck with the authority of our trust deeds as laid down by our Founding Fathers, often many, many years ago.

In Yorkshire our earliest documents come out of the work of Mitchel and Crosley, the cousins from Heptonstall and Barnoldswick, who built up the Church of Christ in Rossendale.<sup>3</sup> David Crosley, whilst living with his aunt in Barnoldswick, became influential amongst a small group of dissenters meeting in a barn and gradually joined them to the church in Rossendale, strengthening and encouraging the work. In 1694 Crosley purchased a cottage adjacent to the barn for use as a meeting house, paying

thirty four pounds of lawfull English money to him [John Taylor] in hand by the said David Crosley... John Taylor doth grant bargaine sell alliene unto the said David Crosley all that messuage of dwellinghouse wherein the said John Taylor now liveth together with one little barne and one croft on the backside of the said barne and two gardens...<sup>4</sup>

To the plot of land, cottage and barn was added, in 1695, by purchase from a William Mitchell, of another piece of land, the parrock 'for the use of the Minister of the Church'.

To Crosley and his generation there was little need to incorporate detailed conditions or 'trusts' into their purchases. The small company of believers, threatened constantly by the Law, knew only too well the purposes for which the property had been purchased, and lived such a precarious existence that the thought of bequeathing their inheritance, bound up with conditions and requirements, to another generation, was not in the forefront of their minds. However, in time, Crosley moved on to London, returning in disgrace to Goodshaw in Rossendale early in the eighteenth century, ultimately settling down there as a schoolmaster and preacher.<sup>5</sup> Meanwhile, by the year 1797, the Barnoldswick Church had expanded beyond the original barn and cottage and proceeded to erect a chapel on part of the 'parrock' acquired in the late 1690s. Now the whole of the property was placed upon one trust deed in the care of several members as trustees and, within the trust, certain requirements were made for the future compliance of the continuing church. The building was to be for

the Particular Baptist Church now meeting holding doctrines of personal and eternal free redemption by the blood and righteousness of Christ alone justification by faith without works as moving or meritorious causes and final perseverance in grace with other doctrines necessarily connected therewith commonly termed Calvinistical and also water baptism by immersion...<sup>6</sup>

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The trustees were to permit a minister who believed those doctrines to expound God's word, administer the Ordinance of the Lord's Supper and to teach children. The members of the church were to be permitted to hold public worship and to gather in private to pray with and for each other and transact all matters 'needful to their Society and Fellowship'. Any members contributing to the upkeep of the ministry were 'to be permitted to bury their dead in the burying ground'.

Here, then, another authority comes into play, determining, with force of law (as the Barnoldswick story later shows)<sup>7</sup> how a local church might act and operate. The church meeting, having guidance under the Holy Spirit, is at liberty to interpret and administer Christ's law, so long as the concerns of the founding fathers are remembered and observed. At Barnoldswick we see what is a common pattern, the accent upon a definition of the type of church and the doctrine to be believed, defending, as it were, the faith of the church. The assumption was that a minister would be appointed and that the minister had to believe the doctrines, expound the word, administer the sacrament (no reference here to lay presidency) and could teach children. It is interesting to note that Nathan Smith, the minister of this period, also did handloom weaving and stored malt in the same premises!

Barnoldswick was not the first of the Rossendale family of churches in Yorkshire to make more specific reference to the life of the church in the conveyance of property. In 1756 the Rawdon Church acquired land adjacent to the Buckstone Rock, their earlier open-air point of meeting, and the trustees purchased it 'for a congregation of Protestant Dissenters commonly called Baptists'.<sup>8</sup> However, they did not set out in detail any doctrines for the local church to believe, though giving the church the right to call a minister of 'the said denomination', stating that 'if he become corrupt and dissolute in his morals or shall absent himself from the duties of his ministerial function' the members had the right to dismiss him, and the trustees, on such dismissal, would cease to pay him the rents and income he was due, and evict him from the chapel and manse!

Wainsgate, at Hebden Bridge, in 1780, purchasing further land to build and expand the premises which were the scene of John Fawcett's endeavours, declared the chapel and school to be for 'Protestant Dissenters of the Particular Baptist persuasion'. Such dissenters should believe in 'unconditional election final perseverance in Grace and Baptism by immersion'.<sup>9</sup> The Trust goes on to say that the minister 'or public teacher' is to be chosen and approved by the church 'and has use of all the grass off the burial ground'. 'There is no reference to the dismissal of the minister, but 'if the trustees or any of them become loose or scandalous in their moral behaviour' they are to be removed from office.

Thus we begin to see the emerging pattern of constraints imposed as an authority upon Baptist churches by their founders through the Trust Deeds. Clearly, as time passed, local churches began both to accept the permanence of what they were doing and to wish to regulate future generations in the area of doctrine, appointment of ministers, and the behaviour of the trustees. In all this there was a certain confidence, for neither the Barnoldswick nor Wainsgate deeds anticipated a time when there would be no building or Baptist cause, through when acquiring further land in 1806 Rawdon did add a clause:

if restrained by the laws of England from being a meeting house the proceeds of sale to be applied for relief of poor persons in Rawdon as the trustees judge proper objects of charity.

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This last clause has continued to present problems to the present day as the Rawdon Church is now part of a Local Ecumenical Project and, whilst trying to dispose of the old property, the trustees discovered that the Charity Commissioners took some persuading not to invoke that particular 'ultimate trust'. Here we see again the authority above and beyond the church meeting coming down through 180 years to constrain the church today.

Crosley's generation simply purchased property, but by the mid to late 1700s, as we have seen, there was a recognition by churches of differences in theology and denominational practice which had to be guarded. Whilst in early generations it had been a matter of the publication of Confessions of Faith and debate between those of differing religious sentiments, now, with the ownership of meeting houses and buildings, it became a matter of protecting property and congregations from leaving 'the true faith' and being beguiled into the arms of false prophets. For Particular Baptists in Yorkshire these seemed to be, as for many others elsewhere, the snares of a doctrinal stance, other than Calvinist, and the possibility of a misguided preacher expounding errant doctrines from the pulpit. Clearly, for them, the matter of the members assembling together to reach a common mind in church meeting and, as we have seen by its scant reference, the issue of baptism by immersion, were not thought to be in danger and were not protected by the deed.

In 1773 the General Baptists of the New Connexion, advancing out of the Hebden Bridge and Calder Valley stronghold, established a trust deed for the new cause at Queenshead (now Queensbury) above Bradford prior to descending on that growing town in the early 1800s. Their deed declared the building was to be

a meeting House for religious worship for the people called General Baptists who should profess and maintain that Jesus Christ is the proper propitiation for the sins of all men without exception - that they are not justified by any works or duties performed by themselves either religious or moral but by faith in Jesus who wrought out a perfect righteousness for them - yet that good works are necessary to glorify God and adorn religion and the certain fruits of the faith in Jesus - and who should also adhere to and abide by the Ordinance of Baptism and the Lord's Supper according to the practice of the said people called General Baptists...<sup>10</sup>

Immediately we see the emphasis on Jesus. Indeed, his name is written in red and underlined on the Conveyance, with all the marks of the evangelical revival, the Arminianism of the doctrine of redemption, together with the emphasis that true faith does lead to works. Both Believer's Baptism and the Lord's Supper receive a prominent mention, but there was little or nothing about the minister, save that the trustees 'shall let him [the minister] use a dwellinghouse if there be one', and at a later point in the conveyance the minister is described as one 'who would labour among the people assembling for religious worship'. In fact, the first minister was John Taylor, brother of Dan Taylor of Hebden Bridge.<sup>11</sup>

At Birchcliffe, Hebden Bridge, the Trust Deed of 1803, relating to land on which was erected the first chapel, prior to the present ornate building,<sup>12</sup> was declared to be for

religious worship of antipedobaptists who profess and maintain the doctrine of universal or general redemption and shall permit and suffer them to enjoy the use of the said building.<sup>13</sup>

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The deed itself was a Conveyance from Dan Taylor and William Crossley to William Crossley, Henry Hollinrake (minister at Birchcliffe from 1806), William Ingham, Thomas Ackroyd and Henry Townend, and includes a very specific reference to the denominational allegiance of the trustees in a township where both General and Particular Baptists were strong:

[The Trustees] when by death of any of them or by any of them leaving or departing from the said community or church fellowship of those who may meet or assemble in the said chapel for the purposes above mentioned or may change their sentiments from general to particular redemption foresake the ways of God or turn to and persist in sin for any of which causes or reasons the rest of the said trustees...<sup>14</sup>

In those circumstances the trustee was to be removed and a new one appointed. Again, in this Conveyance, at the very heart of the New Connexion, no reference was made to the calling and appointment of a minister, nor to the organisation of the church meeting. Perhaps it indicates in the New Connexion a lesser concern for the place of the ordained and separated ministry than amongst Particular Baptists at this time?

As the 1800s advanced, so the doctrines to be proclaimed and the manner by which the church was to be organised became much more the concern of those drawing up trust deeds. Whereas, so it appears, there was very little concern in the early generations about setting down these issues for future generations, a clear reference to the doctrines of a church became standard by the end of the 1700s. By the mid-1800s there was a much fuller presentation of doctrine, the insertion of rules regarding the calling of a minister and the first reference to the function and office of deacon. The New Connexion, expanding in the Calder Valley by descending from the heights of Shore to build 'Bethel' at Lineholme, declared in a Trust Deed of 1855 that:

No person shall preach in the chapel who shall teach or promulgate any doctrine contrary to the fundamental doctrines of the Christian religion as they are now held by the same denomination that is to say -

The inspiration of the Holy Scriptures

Three equal persons in the Godhead Father Son and Holy Spirit

The fall and depravity of mankind

The general redemption by the atonement of Jesus Christ

Influences of the Holy Spirit in the conversion of man

Justification by faith in Christ

Baptism of Believers by immersion

Necessity of a Holy Life

The Resurrection of the Dead

The future judgement and the everlasting duration of rewards and punishments<sup>15</sup>

Here was left no loophole, as some deeds of the 1700s did, for people to argue from silence that Baptism by immersion was not required for membership, or that a range of people holding differing views might be allowed to preach. Now, recognising the growth of churches with open membership and communion, such as Blenheim in Leeds, those responsible for trust deeds began to make sure, as best they were able, that future generations should be under

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an authority and not depart from it. Again, the deed also became more concerned with the finances of the church. Earlier deeds tended to make reference to the trustees collecting rent from property and making it over to the minister. Now

the Deacons of the said Church shall receive all voluntary subscriptions and the members assembled shall annually appoint a Treasurer or more often if the meeting so directs.<sup>16</sup>

The trustees were called to allow the members to hold 'meetings for Spiritual direction and discipline'. These 'to be called and held in a manner usual amongst the said denomination of General Baptists', with at least three days clear notice from the pulpit. When they met,

the persons present and entitled to vote shall elect a Chairman who shall have a casting vote and in like manner a Secretary to record proceedings.<sup>17</sup>

On every issue the deed declared that a simple majority of male and female members voting was all that was required.

Perhaps the concern of the General Baptists of the New Connexion to safeguard doctrine at this time was influenced by the legal cases surrounding the Lady Hewley Charity based in York. Lady Hewley, a Protestant Dissenter, had established a charity in 1704, supplemented in 1707 and 1709, to provide grants for 'poor and godly preachers' and widows of such preachers 'of Christ's Holy Gospel' ... grants towards the educating of young men designed for the ministry and the erection and maintenance of almshouses in York. By the late 1700s the Trustees were all Unitarians, with conflict breaking out over the Charity in 1826.<sup>18</sup> In 1842 a court case declared that because Lady Hewley was a Protestant Dissenter the 'godly persons' referred to in the Deed could not be

Unitarians or members of the Church of England, but Protestant Dissenters only ... and, as all the Trustees had concurred in the misapplication of the charity funds, they must all be removed.<sup>19</sup>

The courts decided they must look to the intention of the founder, though it was only by a Scheme of the Charity Commissioners in 1881 that all the issues were finally settled and Baptists benefited from the Trust, Sir Samuel Morton Peto being appointed the Baptist Trustee.

One consequence of the difficulties arising out of the Lady Hewley case and other similar events was that the Dissenters Chapel Act (1844) was passed, by which, in the case of a place of worship, where there was no express statement in the deed of foundation as to the particular doctrines for which it was to be employed, twenty-five years' usage by a sect was to be regarded by the courts as conclusive evidence of the character and beliefs of the group to be taught and proclaimed.

The General Baptists, much sooner than the Particulars, wished to incorporate into their trust deeds clear rules of procedure for church meetings. The Cemetery Road, Sheffield, Church, the largest and the most influential ex-New Connexion church in the Yorkshire Baptist family, has careful clauses in its 1863 Deed:

Church meetings shall be open to all members being baptised communicants... notice of meetings having been given by a Deacon

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in public worship on the preceding Sunday... entry in a book of acts and resolutions of such meetings signed by the Chairman shall be conclusive evidence.<sup>20</sup>

The same Deed states specifically that 'no one shall be interred there' and that the Pastor was faithfully to teach and preach the doctrines of the church which are listed as being:

The Divine inspiration of Holy Scripture and that man is of nature a fallen and sinful being that man is justified by faith alone in the Lord Jesus Christ with a perpetual obligation to the moral law and the necessity of personal holiness regeneration of the soul of man by influence of the Holy Spirit the proper Godhead and manhood of the Lord Jesus Christ and that he suffered death to make a full atonement for the sins of all Men and the Baptism by immersion of Believers...<sup>21</sup>

The same growing need for definition occurred amongst the Particular Baptists. So the cause at Rawdon, which had earlier in 1806 referred to the building as being for 'Baptists of the congregational persuasion', when adding to the land for a new chapel in 1835, expanded the Trust Deed to include that 'the building shall be for the use of Calvinistic Baptists' and that all decisions were to be made by 'male and female members of the said Church being communicants'.<sup>22</sup> The buildings were to be used for 'the advancement of pure and undefiled religion', and to ensure that that was what happened, only those who preached

the doctrines usually maintained by Calvinistic Baptists that is to say the doctrines of the One living and True God three equal and co-eternal persons in the Godhead Eternal and personal election original sin particular redemption free justification by the imputed righteousness of Christ conversion regeneration and sanctification by the Spirit and the Grace of God the moral law a perfect rule for the moral conduct of all believers the final perseverance of the saints the resurrection of the Body to Eternal life the future judgement the eternal happiness of the righteous and the everlasting misery of such as die impenitent and the practising of Baptism by immersion to such only as are of years of understanding upon their own confession of repentance towards God and faith in our Lord Jesus Christ.<sup>23</sup>

to be allowed into the pulpit. To call a minister, a deacon had to give two Sundays' oral notice at the conclusion of worship, stating what the meeting of members was to be about. At least once a year a meeting had to be held where account had to be given of all monies raised and expended and no-one could vote by proxy at any meeting. Trustees were to be debarred from office if bankrupt, insolvent or absent from the Lord's Supper for six months.

Variations on this Particular Baptist Deed are to be noted elsewhere in the county, though by and large the same features occur in deeds of this period. At Bingley a new deed was adopted on moving site in 1874. This, interestingly, gives male members only the right to decide on extending and improving the chapel.<sup>24</sup> Perhaps it was assumed that, whilst women might be perfectly competent to judge in matters of faith and in the calling of a minister, when it came to putting up buildings only men could both take the

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decisions and enter into the obligations such decisions might require?  
The Bingley deed declared the premises to be

For the worship and service of Almighty God by the Church or congregation of Christians commonly called or known as Particular Baptists.<sup>26</sup>

The buildings themselves could be used for a Sunday School:

But only at such hours and times as shall not interfere with the public worship of Almighty God therein and in all cases under such Government orders and regulations as shall be agreed by the members of the said Church assembled at a meeting to be called for that purpose.<sup>26</sup>

The minister was to be called by a majority of not less than two-thirds of the members present and to continue only as long as he 'preached the doctrines contained in the Holy Scriptures and as held, taught and observed by the Particular Baptists'.

It might be expected that the Barnoldswick Church, having been split over matters centred around the ministry of Thomas Bennett<sup>27</sup> should take special care with regard to its Trust Deed and so, when the 'new Laithe' section of the church purchased ground in 1879 for the North Street Chapel they strengthened the doctrinal base of the church, together with the sections on ministry, declaring the chapel to be for

a congregation of Particular or Calvinistic Baptists which shall hereafter assemble for divine worship and no person shall be admitted to church membership or to commune at the Lord's Supper who shall not be of the denomination aforesaid and who shall have been baptised by immersion as practised by the said denomination and do and shall permit and suffer a Sunday School to be held on conducted and carried out from time to time in the said schoolroom but only at such hours and times as shall not interfere with the public worship of Almighty God therein and in all cases under such government orders and regulations as shall be agreed upon by the members of the said Church assembled at a meeting to be called for that purpose and do and shall permit and suffer the said Chapel schoolrooms and Vestries from time to time hereafter to be used for all such other several uses and purposes as the male and female members of the said Church being communicants present at a meeting to be called for that purpose as hereinafter mentioned shall from time to time approve as being calculated to promote and extend the interest of the said Church and congregation and the advancement of pure and undefiled religion.<sup>28</sup>

Two points need to be noted. Firstly, this was a chapel school, built to be the first stage of a suite of buildings, and so the section about the Sunday School meeting 'other than at the time of worship' was very important. Secondly, the Deed was drawn up in Bradford, by the same solicitors as those who had acted for Bingley in 1874. One element of trust work is that it provides an area of specialist concern for a group of solicitors. Their influence upon denominational life and the authority of Baptist churches is another avenue



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waiting to be explored, but beyond the scope of the present article.

The North Street cause was served firstly by James Wilkinson, a product of the college at Bury, and this no doubt accounts for the very traditional Calvinistic pattern of the Deed. The minister appointed was required to preach the word and

such doctrines as are contained in the Holy Scriptures held taught and observed by the Denomination of Christians called Particular or Calvinistic Baptists that is to say the one living and true God three equal persons in the Godhead Eternal and personal election original sin particular redemption free justification by the imputed righteousness of Christ regeneration conversion and sanctification by the Spirit and Grace of God the moral law a rule for the conduct of all believers and practising Baptism by immersion to such only as are of years of understanding on their own confession of repentance towards God and faith in our Lord Jesus Christ.<sup>29</sup>

Interestingly, if a minister was suspected of immoral conduct, any meeting called to consider the issue was to be of male members only. No definition is given of immorality, but the founders of North Street were men who had been outvoted by the female members of the original Bethesda on the question of the dismissal of Thomas Bennett, whom the same men accused of 'bankruptcy and immorality'.

North Street marks, for Yorkshire, the peak of an era. Within the Association moves were already afoot to relate more closely to the General Baptists of the New Connexion and the stand on closed membership and communion was already succumbing to the Blenheim-inspired tide of open membership and communion, or at least allowing local churches the opportunity to decide in church meeting what their stand should be.

The next stage in the development of authority exercised through trust deeds marked a new departure. This was the 'model' deed promoted by the Association. We have already noted by the mid-1800s that deeds belonging to churches in the same family, daughters, granddaughters and great nieces of the original Rossendale Particular Baptists and Hebden Bridge General Baptists of the New Connexion, shared many features. In 1888 the Association prepared a deed to purchase land at Linthorpe Road, Middlesbrough, to establish a church, and had copies printed as a 'model' deed to be used elsewhere which, indeed, it was.

Conscious of the debate about open and closed membership and drawing very near to amalgamation with the Northern Conference of the New Connexion 'without reference to doctrinal tests on either side', the 1888 Model Deed simply describes the buildings to be for 'a congregation of people called Baptists'.<sup>30</sup>

The buildings, as such, were to be made available by the Trustees

for a Church or Society as shall from time to time be authorised to use and occupy the same by a Committee for the time being of the Yorkshire Association of Baptist Churches and to permit and suffer such person or persons who are hereinafter mentioned to preach and expound God's Holy Word and to perform all other usual acts and ordinances.<sup>31</sup>

The ministry to be provided in the Church was to be

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of the Denomination of Protestant Dissenters called Baptists as shall from time to time be approved of and for that purpose appointed by a majority of the Members of the said Church at a church meeting duly assembled for that purpose notice having been given for the three Sundays preceeding...<sup>32</sup>

Dismissal was to be by vote of three-quarters of those present and voting at a church meeting with three calendar months notice to the minister. Perhaps the most significant innovation became the role of the Association in the sale of premises where power was given to the Annual Assembly of the Association to sell the property. So, on the one hand, we see much less specific requirements with regard to the doctrines and life of the church but, on the other hand, this first Yorkshire 'model' deed gives to the Association of Churches certain clear functions and rights, not least affecting the occupation and the sale of the buildings.

The 1888 'model' Deed soon became the norm for new Baptist causes, whether arising out of the work of the Association or as daughter churches to already existing causes, or by the activity of individuals and without regard to whether those involved were former 'Particular' or 'General' Baptists. Indeed, certain small causes originally founded by larger churches, such as Salterforth, a 'daughter' of Barnoldswick, adopted the 'model' deed for their schoolroom premises, though in the case of Salterforth the chapel premises at that time were held subject to the 'Bethesda' trusts in Barnoldswick.

Within a few years, as the importance of strategic planning within the Association was realised, a new 'model' deed was suggested to the Association by the Building and Extension Committee. Under the guidance of Alfred Barran of Leeds, the 1907 'model' deed was introduced. This had far more to say about future regulation of church life, the pattern of membership and, for the first time, a reference to arbitration in disputes. The buildings themselves, under this deed, were to be for 'persons of the denomination of Protestant Dissenters called Baptists who are for the time being members of the said Church'.<sup>33</sup> The trustees had power to admit as members

Only such persons as have been baptized by immersion upon a confession of faith in the Lord Jesus Christ and have been duly admitted members of the said Church and remain on the register of members of the said Church.<sup>34</sup>

Now, too, an age qualification was introduced, whereby members under eighteen years of age were not allowed to vote at any Special Church Meeting. Special Church Meetings were to be held for calling ministers and buying or selling property. A Special Church Meeting was also required if the members wanted to admit as communicants at the Lord's Table any non-members.

This deed moved from requiring a simple majority of members to call a Pastor, as had been the case with most earlier deeds, to needing a majority of two-thirds of the members present and voting to invite or dismiss the Pastor.

Thus the emphasis of trust deeds began to shift away from doctrine (assuming that to lie rather more with the fact that the church relates to the Association and there rests the guarding authority for doctrine), to taking more interest in the age of members, the requirements of voting and the subjects of special church meetings. Finally, in this 1907 'model' deed, if there was a dispute

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or a difference at any time ... between the Trustees and the Members Pastor and Officers of the said Church or between any of them as to the meaning construction or effect of the Trust Deed or as to any matter relating to the trust premises or as to the doctrines teaching and mode of conducting public worship in or upon the trust premises such dispute or difference shall be referred for settlement to the Arbitration Committee for the time being of the said Association and the decision of the majority of such Committee shall be binding and conclusive on all parties...<sup>35</sup>

However, in keeping with a proper respect for the church meeting, the Arbitration Committee was not given power to overturn any decision of a special meeting:

when it shall appear to the said Committee that such determination was within the powers of such meeting and was arrived at regularly and properly and by the necessary majority.<sup>36</sup>

Recognising that the 1888 Deed had been wide open on the question of membership, baptism and communion, this Deed sought to re-introduce closed membership and to assume closed communion, though the members were at liberty in a special church meeting to

decide from time to time by resolution passed at a special church meeting whether persons who have not been baptized by immersion shall or shall not be admitted as Communicants at the Lord's Table but such persons shall not be members of the said Church.<sup>37</sup>

If the Association had been alive to the need for a model deed in 1888 which might take due account of the sensitive moves towards a union between New Connexion and Particular Baptists, the 1907 Model Deed is much more designed from the position of one Association anxious to plant new causes which would be firmly and obviously Baptist. Indeed, the fact that the Deed was 'adopted by the Building and Extension Committee' on the 9th May 1907, before the Assembly of the Association had authorised Alfred Barran J.P. to execute it, strengthens the suggestion that the Building and Extension Committee wanted a stronger deed for new premises where *their* money was to be placed, over against the existing 1888 Deed. Thus, in the issues set out in the Deed, we see a return to the careful mapping out of authority which marked the deeds of the early to mid-1800s, the noticeable areas of difference being the absence of a clear doctrinal definition and the insertion of fuller instructions about church meetings and membership. To the Association is given a new role - that of arbiter in disputes.

The 1907 Deed was used to found several new Baptist causes in the county<sup>38</sup> and continued in use until 1941 when, as the Association had become Incorporated in 1922 and there had been various changes to Acts of Parliament, it was decided to introduce a new deed taking account of this new role as a Corporate Trustee and taking advantage of the work done by the Solicitors to the Union in preparing the Union 'Model Trusts' of 1936.<sup>39</sup>

The 1941 Deed made great strides, firstly in the definition of the church. The 'said Church' means persons of the Denomination of Protestant Dissenters called Baptist who shall 'accept the constitution for the time being in force of the said Union and be in membership with the said Association'.<sup>40</sup> So a new move in authority was recognised. A church on these trusts must, within its

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own trust deed, be in membership with the Association and accept the constitution of the Union. Previous generations, bound into voluntarism, never seemed to doubt that a church taking the name Baptist to itself would do other than join the local Association, which had no doubt brought it to birth and in which the neighbouring churches played a part. Now, with the 1941 Deed, it became a requirement. Then too whilst some, though as we have seen not all, earlier deeds had made clear reference to Baptism by immersion, the 1941 Deed placed, in addition, the restrictive clause 'and no other Baptism'.<sup>41</sup> The call and appointment of a minister was also very carefully mapped out, such ministers holding, as in the Union's Declaration of Principle, that:

our Lord and Saviour Jesus Christ God manifest in the flesh, is the sole and absolute authority in all matters pertaining to faith and practice, as revealed in the Holy Scriptures, and having been immersed on a confession of faith in the Lord Jesus Christ and maintaining and practising the doctrine and rite of the Immersion of Believers and no other Baptism and whose name appears on the accredited list of Baptist Ministers and Probationers compiled annually by the said Union ...<sup>42</sup>

The minister was to be appointed, re-appointed or dismissed at a special church meeting where a resolution relating to ministry had to be carried by three-fifths of those personally present entitled to vote and voting by ballot without discussion on the resolution submitted!

The 1941 Deed allowed for the adoption of a clause on 'open' or 'closed' membership but, if open, two-thirds of the Deacons or Elders had to be baptised. Members could only vote at church meetings after they had been in membership for six months and attained the age of eighteen. For the first time the 1941 Deed sets out a constitution for the church declaring the necessity of holding quarterly church meetings, the procedure at special church meetings, the power of the Chairman in regard to a casting vote, the procedure for rescinding a minute passed at a previous meeting, and who shall resolve who will chair the meeting if there is no minister or moderator present.

This Deed represents a much more detailed external authority than any previous Deed and has often caused churches to query particularly the requirements about age and length of membership. On age, the argument runs: 'if a person is old enough to make the decision to respond in faith by baptism to the Grace of God, surely they are old enough to vote on the issues of the church meeting'. Maybe so, but at this point an authority outside the three mentioned by Brian Haymes comes into play and the church meeting is bound not by the Spirit but by the Law.

The 1941 Model Deed became the standard deed for churches founded within the Association and of the 119 churches currently in membership with the Yorkshire Baptist Association no less than nineteen have this as their trust deed. As with the other 'model' deeds of the Association, in the event of the closure of the cause and the disposal of the assets the proceeds were to be applied for

such charitable purposes connected with the Baptist denomination as the said Association shall in its absolute and uncontrolled discretion direct.<sup>43</sup>

The 1941 Deed represents, strictly, the last in the line of Association model deeds. The 'authority' wielded in trust deeds has, in succeeding years, rested

## THE AUTHORITY OF THE TRUST DEED

either in adaptations of the 1941 Model Deed by new churches or in the adoption of the model deed of the Baptist Union by existing churches whose own trust deed was unsatisfactory (as allowed for by the 1951 Baptist and Congregational Trusts Act). Where there were difficulties on the closure of chapels because of inadequate Ultimate Trusts, the Country Trusteeship Committee, increasingly appointed as co or sole trustee as a result of the Charities Act 1960, tended to opt for *cy-près* schemes from the Charity Commissioners to re-direct the assets of one cause to assist another.

Though the lineage, in a sense, is broadened at this point, it remains appropriate to bring the account of the developing pattern and authority of trust deeds in Yorkshire through to the 1980s.

In 1956 the Union revised its earlier Model Deed with what are known as the 'Fuller Trusts'. These had little influence in Yorkshire as new causes were still adopting the 1941 Association Deed, and the practice of churches with difficult foundation deeds looking to the adoption of a model deed had not yet prevailed in the county. The Fuller Deed was, in many senses, similar to the 1941 Deed, though obviously making much clearer reference to the Union. From our point of view the salient feature to note is that the doctrinal requirement for members was eased. The Fuller trust requires that:

- 16(a) No person shall be entitled to become or remain a member save such persons as hold the Deity of the Lord Jesus Christ and the authority of the Holy Scriptures and that interpretation of them usually called Evangelical and who have made a confession of faith in the Lord Jesus Christ.
- (b) If a Foundation Deed so requires the Church shall have closed membership that is to say no person shall be entitled to be or remain a member save such persons as have been baptised that is to say immersed upon a confession of Faith in the Lord Jesus Christ.<sup>44</sup>

In the same way the requirement for the Diaconate was changed from two-thirds to be baptised to 'at least a majority of the Deacons and Elders'.<sup>45</sup> many of the other clauses remained the same, but significant in a continuing discussion about authority and the relationship between local church, Association and Union was the Ultimate Trust which provided that:

if there is no Foundation Deed or (b) the Foundation Deed contains no effective provisions for ascertaining the person or body of persons to be entitled upon such failure as aforesaid then and in either of such cases the said moneys shall be held upon such charitable trusts connected with the Baptist Denomination as the Union and the Association shall in their absolute and uncontrolled discretion jointly direct.<sup>46</sup>

This particular Ultimate Trust, to be used in the event of the closure of a church and the sale of the buildings, which has become the standard trust in the later 'Fairbairn Model Deed' (*quod vide*), introduces another element in the discussion about authority. In 1969 the Council of the Baptist Union re-affirmed an earlier decision which interpreted that clause to mean that any closure the proceeds would be divided, 50% going to the Association and 50% to the Union. This was commonly called the '50-50 Rule'. Recently the

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Baptist Union Corporation Directors have declared that the 'Rule' is really only a guiding principle and there should be discussion, in the light of the principle, between an Association and the Union before a decision is taken. This interpretation has now been accepted by the Baptist Union Council.<sup>47</sup>

The existence of a national deed meant that Yorkshire did not pursue a further Model Deed and in 1961 the Baptist Union Assembly adopted a modified and up-dated version of the Fuller deed with the acceptance of the present Model Deed, the Fairbairn. This largely followed the Fuller, though it provided additional clauses requiring occasional preachers to hold the 'Deity of the Lord Jesus Christ, the authority of the Holy Scriptures and the interpretation of them usually called Evangelical'. The Deed placed a new emphasis on the role of Trust Corporations, which meant it could, at points, be simpler than the earlier Fuller Deed with regard to the sale of property. In the procedure for church meetings the Fairbairn Deed dropped the requirement that before a person could vote they had to be a member for six months and have attained the age of eighteen and been to communion once in the preceding six months.

However, where Fairbairn was adopted on the acquisition of new property or a different site, then Yorkshire churches always tended to revise the Ultimate Trust to allow the Association, in its absolute and uncontrolled discretion, to take the decision as to what happened to the proceeds. In the case of churches starting from new, then a variant between Fairbairn and the 1941 deed has tended to be adopted.

The most recent deeds of new churches formed in the 1980s bear evidence of developments in ministry and styles of church life influenced by concepts of 'whole body ministry' and the Charismatic Movement. So the Deed for Holt Park, Leeds, provides not only for ministers but for leaders and that membership

of the Society shall be open to all who profess repentance towards God and who have faith in Jesus Christ as Saviour and Lord whose lives bear evidence of their Christian profession and who have confessed their faith in one God Father Son and Holy Spirit.<sup>48</sup>

Note the different emphasis away from doctrinal propositions towards the personal attitude of repentance and the demonstration of marks of Christian living within the member. In a more recent deed the emphasis upon the attitude and marks of the discipleship in the leaders and members is expressed in this way:

They must be convinced of the need to share the good news with others desiring to see a continuous outpouring of the Holy Spirit on Garforth and surrounding area.<sup>49</sup>

At the outset of this article I noted that trust deeds, like Scripture, are a fixed point from the past. Every church, be it founded, like Barnoldswick and Rawdon, in the early days of Baptist witness, or like Garforth, only a matter of two years ago, has settled upon it an authority which subsequent generations have to respect. An authority, bound up with buildings and possessions, which stands, at points, over and above and occasionally, though we hope rarely, against the wishes of the church meeting. This authority, though fixed, has varied in emphasis from one generation to another, so neighbouring Baptist churches may find their trust deeds require very different things of them.

## THE AUTHORITY OF THE TRUST DEED

The authority, for the early Baptists in Yorkshire, was minimal. However, with the growing debate between General and New Connexion Baptists in the 1700s and early 1800s, the matter of right belief became very important (witness the deeds of Lineholme, Todmorden and North Street, Barnoldswick). Then notice how, by the 1880s, the influence of each local church, in drawing up a deed, is replaced by the growing practice of Model Deeds from the Association. The early ones, coming out of an age when relationships between the Particular Yorkshire Baptist Association and Northern Conference of the New Connexion were becoming daily closer, removed all references to the detail of doctrine and concentrated instead on the minister and the role of the Association as the ultimate authority over the property. With the amalgamation of the New Connexion and Particular streams in the 1890s more emphasis could be placed on the detail of church life, though concentrating on procedure for church meetings, rather than the doctrines of the church. 'The '1941' Yorkshire Deed represents the 'state of the art' and the popular choice<sup>50</sup> for Baptist churches in the county through to the early 1980s.

The shift away from regional 'Model Deeds', brought about under the pressures of the 1951 Baptist and Congregational Trust Acts and the Charities Act 1960, towards national 'Model Deeds' (the Fuller and the Fairbairn) has had little impact in the county, largely, as I have suggested, because of the '50-50 Rule' (or guiding principle). Now we see a return to more flexible deeds, based on the '1941' Deed but emphasising more the possibility of variant forms of ministry and the importance of the attitude and actions of the individual disciple or member.

We have seen something of the constraints facing the present generation from these past deeds. Assets from the trust can be affected as at Rawdon, the question of voting age has been a cause of concern in some places, and churches with 'closed' membership have felt constricted in not being able to admit into membership Christians in good standing from other orthodox traditions by transfer, or indeed members from 'open' membership churches who have not been baptised by immersion.

Here then is another authority for Baptists. Perhaps not one to provoke debate in the manner encouraged by Principal Haymes, but nevertheless an important strand in the web of interconnecting influences that turn local groups of Christians into churches, associations and unions. The Yorkshire experience is, at that point, repeated with variations in the other English and Welsh Associations, but the variations matter and are borne of convictions held, sometimes stubbornly, that one generation seeks to pass on to another.

## NOTES

This article was adjudicated the winning contribution in the first E. A. Payne Memorial Prize Essay Competition.

1. These lectures are now published as: B. Haymes, *A Question of Identity: Reflections on Baptist Principles and Practice*, Leeds, 1986.
2. *Ibid.*, p.14.
3. For a full treatment of their endeavours see I. Sellers (ed.), *Our Heritage: The Baptists of Yorkshire, Lancashire and Cheshire 1647-1987*,

Leeds, 1987, ch.1.

4. Conveyance of 23rd April 1694 with the Deeds of the Barnoldswick Church, now in the strongroom of the Yorkshire Baptist Association at the Association's registered office, as are the other deeds referred to in this article.

5. Sellers, *op.cit.*, ch.1.

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6. Barnoldswick Trust Deed 1797.
7. K. G. Jones, 'The Industrial Revolution: Effects upon the Baptist Community in Barnoldswick and the resulting "split" in the Baptist Church', BQ XXX, 1983, p.125ff.
8. Rawdon Conveyance and Trust Deed of 1756.
9. Wainsgate Trust Deed 1780.
10. Queensbury Trust Deed 30th August 1773.
11. J. H. Randall and D. B. Milner, *Queensbury Baptist Church 1773-1973: A Short History*, Bradford, 1973, p.2ff.
12. The present building ceased to be a Baptist Chapel in the 1970s. It is now the Birchcliffe Centre, housing various community and political organisations and incorporates a modern conference centre with accommodation.
13. Birchcliffe Trust Deed 1803.
14. Ibid.
15. Bethel, Lineholme, Trust Deed, 1855.
16. Ibid.
17. Ibid.
18. The full account of the Charity is available in Gowders, Vizard, Oldham & Co, *Lady Hewley's Charity*, 1913.
19. Bristowe, Hunt and Burdett, *Tudor on Charities and Mortmain*, 1906, p.172ff.
20. Cemetery Road, Sheffield, Trust Deed of 1863.
21. Ibid.
22. Cragg, Rawdon, Trust Deed 1835.
23. Ibid.
24. Bingley Trust Deed 1874. Similar restrictions on the right of female members to vote on issues such as the erection of new premises or the appointment of trustees exist in the deeds of other Particular Baptist Chapels in Yorkshire.
25. Ibid.
26. Ibid.
27. Jones, op.cit., BQ, 1983, p.125ff.
28. North Street, Barnoldswick, Trust Deed 1879.
29. Ibid.
30. 1888 Model Deed of the Yorkshire Baptist Association, the 'Middlesbrough' Deed. Used in five other situations still in existence.
31. Ibid.
32. Ibid.
33. 1907 Model Deed of the Building and Extension Fund of the Yorkshire Baptist Association.
34. Ibid., clause 8.
35. Ibid., clause 28.
36. Ibid.
37. Ibid., clause 9.
38. Ten churches currently in existence.
39. These Model Trusts were themselves to be updated in the Fuller Trusts of 1951 and revised again to form the Fairbairn Trust of 1962.
40. 1941 Model Deed, clause 1(5)(iii).
41. Ibid., clause 4(e).
42. Ibid., clause 6.
43. Ibid., clause 13(f).
44. Baptist Model Trusts for Chapels and Halls known as the Fuller Trusts, 1956. Clauses 16(a) and (b).
45. Ibid., clause 16(e).
46. Ibid., clause 11.
47. There has been extensive correspondence between the Trusteeship Committee of the Yorkshire Baptist Association, the General Secretary of the Union and the Baptist Union Corporation Directors extending over a period of at least 30 years on this issue which is one of authority and deals with the business of interpreting the Deed. The issue is now resolved with the recent decision of the Directors, accepted by the Council.
48. Holt Park Trust Deed, 1984, clause 17.
49. Garforth Trust Deed, 1986, clause 4.
50. Of churches now in existence in Yorkshire, 5 are on the 1888 Deed, 10 on the 1907 and 18 on the 1941.

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