

# **MONKEN HADLEY COMMON.**



## **Report of the Committee**

**appointed at the Meeting of Commoners held  
on Easter Tuesday, 1901, to investigate  
the question of Common Rights,  
as amended in pursuance of the resolution  
passed at the Meeting of Commoners held  
on 8th April, 1902.**

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REPORT OF THE COMMITTEE appointed at the meeting of Commoners held on Easter Tuesday, 1901, to investigate the question of Common Rights, as amended in pursuance of the resolution passed at the Meeting of Commoners held on 8th April, 1902.

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The Committee have held eleven meetings since their appointment and have, to the best of their ability, investigated the question referred to them of determining in respect of what properties Rights of Common are exercisable, and the number of Stints to which each property is entitled.

They have taken as the basis of their investigations the certificate of the Chief Clerk in the Chancery suit of *Monro v. Proctor*, made in 1858, pursuant to the decree of Vice-Chancellor Kindersley directing enquiries as to the persons entitled to participate in the moneys paid into Court by the Great Northern Railway Company as the price of the strip of the Common acquired by the Company for the purpose of their undertaking. This certificate merely finds the names of the owners of the properties to which Rights of Common attached with the number of Stints allotted to each—(a) in respect of houses and (b) in respect of land. None of the properties are identified either by plan or description; but as several members of the Committee were resident at Hadley at the date of the enquiry, the Committee have fortunately been able in almost every case to trace the devolution of title to the several properties from the owners thereof named in the certificate to the present owners; and there are only one or two cases in which it appears there can be any reasonable doubt upon the question of identity. But

the certificate is not necessarily conclusive. There may have been, and no doubt are, persons who did not trouble themselves to come forward and prove their title; and this is scarcely a matter of surprise when it is remembered that almost the whole of the purchase-money paid into Court by the Great Northern Railway Company was swallowed up by the cost incurred in ascertaining the persons entitled to it.

The Committee therefore invited all Owners of property within the ancient Parish of Monken Hadley who, or whose predecessors in title, were not certified, but who nevertheless, claim to be entitled to Rights of Common to come in and prove their claims. In response to this invitation several Owners have produced their Title deeds which show conclusively that the houses in respect of which they claim were either standing or occupy the sites of houses standing in the year 1777, the date of the Act for enclosing Enfield Chase under which the Common is regulated. Others although they have no title deeds in their possession dating back as far as 1777 have satisfied the Committee that there must have been houses standing at that date on the site of the premises in respect of which they claim; while others have been allowed to turn on their beasts without challenge during a considerable number of years, a circumstance from which a legal right to do so would probably be inferred. In all these cases the Committee feel that it would be difficult, if not impossible, for the Trustees to prove their case were they to take proceedings to restrain the claimants from turning their beasts on to the Common, and they are accordingly of opinion that the claims should be allowed.

In order to show at a glance the result of their investigations the Committee have prepared and submit herewith three Schedules.

The first of these Schedules contains particulars of the properties in respect of which Rights of Common were allowed

in the suit of *Monro v. Proctor* with the names of the present Owners and Occupiers of the properties so far as they can be ascertained, and the number of Stints allowed in respect of each property, a column being added to show the cases in which claims have recently been made in excess of the number of Stints recognised by the Certificate.

The second Schedule contains a list of the houses in respect of which no claim was made in the suit, but which the Committee are satisfied were either standing or occupy the sites or portions of the sites of houses standing in the year 1777, with the names of the Owners and Occupiers of such houses (so far as they can be ascertained) and the number of Stints claimed in respect of each house. These Stints, eight in all, the Committee are of opinion should be allowed.

The third Schedule contains particulars of the properties not included in either of the foregoing categories, on which, for the reasons already stated, the Committee think Rights of Common should be allowed.

In considering the number of Stints to which each Commoner is entitled there is one point to which the Committee wish to direct particular attention. The Rules for the management of the Common drawn up in the year 1777, immediately after the passing of the Act, contained a provision that two Stints should be allowed in respect of each messuage assessed to the Land Tax at a rent of £20 or upwards, one Stint in respect of each messuage assessed to the Land Tax at a rent of less than £20, one Stint in respect of every other house not assessed to the Poores Rate, and one Stint in respect of every three acres of land.

By the rules now in force, which were passed in the year 1886, it is provided that the Rights of Commonage shall be enjoyed by the several persons entitled thereto according to the following Stints, viz.:—every occupier of a dwelling house within the parish

(of Monken Hadley) assessed to the Poor Rate at £20 a year or upwards, and entitled to Rights of Common in respect thereof, shall be entitled to keep on the Common two head of commonable beasts or cattle in respect of such house and no more; and if assessed at less than £20 a year to keep one head in respect of such house and no more; and every occupier of three acres of land and upwards within the parish who is entitled to commonage in respect thereof shall have liberty to keep on the Common in respect of such land after the rate of one head of commonable beasts or cattle for every three acres of land he or they shall so occupy. The test for determining the number of Stints to which a Commoner is entitled is therefore no longer the amount at which the qualifying property was assessed to the Land Tax in the year 1777, but the amount at which it is assessed to the Poor Rate apparently at the date at which the claim to turn out upon the Common is made. The Committee are of opinion, that having regard to the general scope and purpose of the Act of Parliament under which the rules purport to have been made, the intention of the legislature was to fix the number of Stints once for all at the date at which the Act came into operation: and in so far as the rules of 1886 may have the effect of increasing the number of Stints they are *ultra vires*. Many properties, for instance, which were assessed to the Poor Rate at less than £20 per annum at the date of the Chief Clerk's certificate are now assessed at a far higher figure, and the rateable value of several of the properties specified in Schedule III. has similarly increased. The Committee have felt themselves bound to assume that the existing rules are valid and binding upon the Commoners, the consequences being that in a considerable number of cases two Stints have been claimed and allowed where a few years ago only one could have been claimed. This gradual extension of Common Rights may become a serious matter, and the Committee think the question should be set at rest at as early a date as possible.



In the course of their investigations several other matters have been brought to the notice of the Committee upon which they feel themselves unable to express any definite opinion.

In the year 1870, or thereabouts, the British Land Company purchased from Captain Strong some 41 acres of land partially abutting on the Common, which they laid out as a Building Estate. Of this land eight acres, with a farm house, were owned by Captain Strong, the remaining thirty-three acres being in his occupation. The farm house and some three acres of land were purchased from the British Land Company by one Charles Dickens, and the Company purported to assign to Dickens the whole of the Common Rights (14 in all) exercisable in respect of the farm house and land purchased by them. Since this assignment to Dickens subsequent purchasers of three acres or upwards from the British Land Company have claimed and have been allowed one Stint in respect of each three acres to which they could show a title; and to this extent the Rights of Dickens and those deriving title under him have been ignored.

This is a question clearly requiring consideration, and one upon which the Commoners ought to be advised in view of the not improbable contingency of rival claims being put forward by two or more persons to exercise the Rights of Common in respect of the same property.

There are cases in which claims have been put forward in excess of those allowed by the Chief Clerk in the suit of *Morro v. Proctor*. Almost all of these claims are for two Stints when the Chief Clerk allowed only one, and arise by reason of the rateable value of the property in respect of which the claims are made having risen to a sum exceeding £20 since the date of the certificate. As already stated the Committee have no option but to assume the validity of the Rules of 1886, but the question is one which obviously requires further consideration.

With regard to the site on Hadley Green on which Albert Cottage formerly stood, the Committee have ascertained that the property was purchased in 1899, by Mr. G. D. Byfield, as Trustee for the East Barnet Valley Urban District Council, and paid for out of the General District Rate, and that the legality of the purchase is at present the subject of an appeal to the Local Government Board.

In the course of their investigations the Committee have discovered that the Rules for the management of the Common at present in force were confirmed by a majority of those Commoners only who were actually assessed to the Land Tax in the year before the Rules were drawn up. This would seem to be in strict accordance with the Act of 1777; but bearing in mind that at the date of the Act there was no machinery in existence for the redemption of the Land Tax, and that, since the redemption of the Tax has become possible a large number of persons have redeemed, there would seem to be a question whether, so far as the confirmation of Rules for the regulation of the Common is concerned, the Act can be strictly followed.

In view of the difficulties with which they have found themselves confronted, the Committee recommend that the following questions should be submitted for the opinion of Counsel, viz. :

1.—Whether the Rules now in force have been validly confirmed, and if not, what steps (if any) should be taken for their confirmation?

2.—Whether any, and if any, which, of such rules are *ultra vires*?

3.—What procedure should be adopted in the event of the Commoners resolving to frame new rules for the management of the Common.

4.—Whether the number of Stints was irrevocably fixed at the date of the passing of the Act of 1777, or whether it is

susceptible of variation from time to time? And if susceptible of variation whether the Poor Rate can properly be adopted as the standard for ascertaining the number of Stints to which a Commoner is entitled?

5.—Whether on the sale of either the whole or part of a property in respect of which Rights of Common are exercisable, the vendor can either (1) reserve the Stints to himself, or (2) convey them to one or more purchaser or purchasers to the exclusion of the other or others? and

6.—Whether such Rights of Common can be sold or otherwise disposed of *in gross*, *i.e.* apart from the property in respect of which they are exercisable?

Until these questions are solved, it will be difficult, if not impossible, for the Trustees to determine how many beasts may properly be allowed upon the Common; and it is obviously for the benefit both of the Trustees and the Commoners that they should be solved at as early a date as possible.

The Committee further venture to recommend, with the view of protecting the Commoners, that when any claim to a Stint is made in respect of any property not included in any of the Schedules the claimant should be called on to substantiate his title by showing that the messuage in respect of which he claims was either standing or erected in whole or in part on the site of a messuage standing in the year 1777; and that, in the absence of such evidence, the Churchwardens, as Trustees of the Common, should refuse to allow any claimant to turn out his beasts, leaving it to him to take such steps for enforcing his rights (if any) as he may be advised.

*For the Committee,*

F. A. MILNE,

*Chairman.*

MONKEN HADLEY,

*November 10th, 1902.*



## SCHEDULE I.

*Particulars of the Properties in respect of which Rights of Common were allowed by the Certificate of the Chief Clerk in the suit of *Monro v. Proctor*, and of the Number of Stints allowed by him in respect of each of such Properties, with the names of the present Owners and Occupiers, and of the number of Stints claimed in excess of such Certificate.*

	Description of Property.	Stints allowed.	No. in C.C.'s Cert.	Name of Owner.	Name of Occupier.	Stints claimed in excess.
1	Blue House, Hadley Common	2	3	F. A. Bevan	Executors of A. T. B. Dunn	
2	Blue House, Land ...	12	3	F. A. Bevan	Executors of A. T. B. Dunn	8
3	Blue House, Land ...	14	3	F. A. Bevan	D. Frusher	
4	Ludgrove, Hadley Common	2	3	F. A. Bevan	Executors of A. T. B. Dunn	
5	Folly House, Hadley Common	2	7	F. A. Bevan	D. Frusher	
6	Folly Farm, Hadley Common	1	37	F. A. Bevan	D. Frusher	
7	Folly Farm, Land ...	18	37	T. Percival Wilson	D. Frusher	
8	Folly Farm, Land ...	2	37	Barnet District Gas and Water Co.	Barnet District Gas and Water Co.	
9	Line of Great Northern Railway Co.	2	37	Great Northern Railway	Great Northern Railway	
10	Gothic House and Land, Hadley Common	7	18	Capt. G. C. Cole	Capt. G. C. Cole	
11	Land, The Crescent, and Hadley, Woodville, and Clifford Roads	11	23	The British Land Co. and Purchasers from them	See Report	
12	Trevanion and Land, Hadley Common	3	34	S. Harris	H. Wynne Pugh	
13	Land between Trevanion and Hadley Hurst, Hadley Common	3	29	S. Harris	J. Smith	
14	Hadley Hurst and Land, Hadley Common	13	48	S. Harris	J. D. Fry	
15	Chase House, Hadley Common	2	43	Executors of H. Harris	T. B. Miller	
16	Hurst Cottage, Hadley Common	2	13	Executors of F. Hopegood	Rev. A. D. Clarke	
17	Bolenna, Hadley Common	1	11	Miss M. Geddes and another	G. H. Harvey	
18	Gladsmuir and Land, Hadley Common	6	29	Rev. Dr. Quilter	C. Hemery	
19	Hadley Lodge and Land, Hadley Common	8	40	G. T. Symons	G. T. Symons	
20	White House, Hadley Green	2	36	F. A. Milne and others	Exors. of D. Petrie	2
21	Hollybush House, Hadley Green	2	6	Rev. F. S. Sandeman	Rev. F. S. Sandeman	
22	Livingstone Cottage, Hadley Green	1	54	J. J. Elliott	Miss Sewell	
23	Monkenholt, Hadley Green	3	53 & 54	J. J. Elliott	G. A. Wilkinson	
24	Fairholt, Hadley Green	1	15	J. J. Elliott	Miss Tudor	
25	Hadley House and Land, Hadley Green	6	12	J. J. Elliott	J. J. Elliott	
26	Doctor's House, Hadley Green	2	52	W. Mercer	W. Mercer	
27	The Elms, Hadley Green	2	33	Miss Wyke Smith	J. F. Gilling	

SCHEDULE I.—Continued.

	Description of Property.	Stints allowed.	No. in C.C.'s Cert.	Name of Owner.	Name of Occupier.	Stints claimed in excess.
28	The Limes, Hadley Green ...	2	33	J. F. Gilling ...	R. Homan	
29	Manor House and Land, Hadley Green	14	39	Miss E. Wyburn ...	Miss E. Wyburn	
30	The Cottage, Hadley Green ...	1	35	Capt. Butts ...	Miss Vass	
31	Ossulston House (2), Hadley Green ...	2	14	W. Joslin ...	Earl Tankerville	
32	Ossulston House (1), Hadley Green ...	2	1	Trustees of Conference Hall, Mildmay Park	Earl Tankerville	
33	Site formerly Albert Cottage, Hadley Green	1	39	East Barnet Valley Urban District Council	Vacant	
34	Infant School, Hadley Green ...	1	39	Trustees ...	Miss Green	
35	244—8, High Street, Hadley ...	1	8	W. Joslin ...	W. Joslin ...	1*
36	238, High Street, Hadley ...	1	38	P. J. Baughen ...	Mrs. Crook	
37	234, High Street, Hadley ...	1	17	P. J. Baughen ...	W. Crowsley	
38	230—2, High Street, Hadley ...	1	46	G. W. N. Miller ...	Miss Pearson and W. Pacey	
39	216—22, High Street, Hadley ...	1	19	G. W. N. Miller ...	Ogles and others	
40	212, High Street, Hadley ...	1	22	H. Sharp ...	H. Sharp	
41	210, High Street, Hadley ...	1	10	G. Sears ...	Miss Earson	
42	Nursery in rear of 210-248, High Street	2	10	G. Sears...	G. Sears	
43	208, High Street, Hadley ...	1	10	G. Sears ...	C. Richardson	
44	206, High Street, Hadley ...	1	10	Garrow's Devises	T. Brown	
45	204, High Street, Hadley ...	1	27	Miss Heath ...	J. Francis	
46	202 (The Hollies), High Street, Hadley	1	27	Miss Heath ...	Miss Heath	
47	170—4, High Street, Hadley ...	2	21	Mrs. Williams ..	J. Thomas and others	
48	4 Cottages in rear of 170—4, High Street, Hadley	4	21	Mrs. Williams ...	G. Buckle and others	
49	168, High Street, Hadley ...	1	24	Mrs. Schmidt ...	Mrs. W. Carter	
50	Bath Place, High Street, Hadley ...	6	25	Mrs. Schmidt ...	Swain and others	
51	160, High Street, Hadley ...	1	1	Executors of S. Byford	Geo. Winchester ..	1*
52	158, High Street, Hadley ...	1	16	B. Bennett ...	J. G. Jarvis	
53	154—6, High Street, Hadley ...	1	32	F. Holloway ...	F. Holloway ...	1*
54	152, High Street, Hadley ...	1	31	Executors of S. Byford	Gill Bros. ...	1*
55	150, High Street, Hadley ...	1	20	J. A. Cook ...	J. A. Cook ...	1*
56	155—7, High Street, Hadley ...	2	4	R. Lucas ...	R. Lucas	
57	159, High Street, Hadley ...	2	51	J. D. Miller ...	J. D. Miller	

SCHEDULE I.—Continued.

	Description of Property.	Stints allowed.	No. in C.C.'s Cert.	Name of Owner.	Name of Occupier.	Stints claimed in excess.
58	171—3, High Street, Hadley	...	1 44	G. W. Halsey	C. Manning and Mrs. Langley	1*
59	175, High Street, Hadley	...	1 30 & 45	W. James	W. Rock	1*
60	177, High Street, Hadley	...	2 30 & 45	W. James	W. James	
61	187—9, High Street, Hadley	...	1 50	G. W. N. Miller	G. W. N. Miller	1*
62	191, High Street, Hadley	...	1 50	G. W. N. Miller	W. Gridley	
63	Post Office, Shop, and Timber Yard, Mill Corner, Hadley	1	42 & 49	Mrs. Hamsher	Mrs. Walter and H. Harrison	
64	Sunny Cottage, Dury Road, Hadley	...	1 2	Miss A. Attfield	Miss Attfield	
65	2—3, Gothic Place, Dury Road	...	1 9	Mrs. Hamsher	Mrs. Hamsher and J. Harrison	
66	5, Gothic Place, Dury Road	...	1 5	Mrs. Hamsher	G. Godfrey	
67	6, Gothic Place, Dury Road	...	1 5	Mrs. Hamsher	J. Brooks	
68	Ashbery House, Dury Road	...	1 26	A. Dean	E. Ingram	
69	Hadley Bourne, Hadley Green	...	2 28	G. W. Taylor	G. W. Taylor	
70	The Friory and Land, Hadley Green	...	3 10	Mrs. Hoskins and Mrs. Nickoletts	J. P. Callard	
71	<b>The Grove, Hadley Green</b>	...	<b>3 55</b>	<b>Lt.-Col. A. W. Bentley</b>	<b>Lt.-Col. A. W. Bentley</b>	
72	House next Hadley Church	...	2 41	C. H. Monro	C. H. Monro	
73	Verger's House, Hadley	...	1 47	Trustees of Sir J. Pagitt's Charity	A. Harrison	
74	The Rectory, Monken Hadley	...	2 47	Rev. R. H. O. Stubbs	Rev. R. H. O. Stubbs	

## SCHEDULE II.

*Particulars of Messuages proved to have been standing in the year 1777 A.D., or to have been erected on the site of Messuages then standing, which are not included in the Chief Clerk's Certificate in the suit of *Monro v. Proctor*, but in respect of which Rights of Common have been claimed, with the names of the Owners and Occupiers and the number of Stints claimed in respect of each such Messuage.*

	Description of Property.	Stints Claimed.	Owner.	Occupier.
1	Hadley Grove, Hadley Green ... ..	2	F. C. Hunwicke ... ..	F. C. Hunwicke
2	Clyde Villas, Hadley Green ... ..	1	W. Joslin ... ..	W. Joslin
3	202, High Street, Hadley ... ..	1	Miss Heath ... ..	Miss Heath
4	192, High Street, Hadley ... ..	1	F. C. Anstee ... ..	F. C. Anstee
5	190, High Street, Hadley ... ..	1	J. Bartlett ... ..	Miss E. M. Southam
6	Hadley Brewery, Hadley Green ... ..	2	J. Harris Browne ... ..	J. Harris Browne

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## SCHEDULE III.

*Particulars of Properties not included in the Chief Clerk's Certificate in the suit of *Monro v. Proctor*, in respect of which Rights of Common are in the opinion of the Committee exercisable, notwithstanding that the Owners have been unable to prove their Claims strictly, with the names of the Owners and Occupiers and the number of Stints claimed in respect of each such property.*

	Description of Property.	Stints Claimed.	Owner.	Occupier.
1	The "Cock" Inn, Cockfosters ... ..	2	Prior, Reid & Co. ... ..	W. Hicks
2	228, High Street, Hadley ... ..	2*	G. Hieber ... ..	G. Hieber
3	236, High Street, Hadley ... ..	1	P. J. Baughen ... ..	Mrs. Godfrey
4	226, High Street, Hadley ... ..	2*	S. Philp ... ..	S. Philp
5	214, High Street, Hadley ... ..	1	W. Ager ... ..	W. Sharp
6	212, High Street, Hadley ... ..	1	W. Ager ... ..	— Swarbrick
7	240, High Street, Hadley ... ..	1	W. Ager ... ..	W. Langdale
8	198, High Street, Hadley ... ..	1	W. Ager ... ..	E. A. Coleman
9	196, High Street, Hadley ... ..	2*	W. H. Shepherd ... ..	W. H. Shepherd
10	194, High Street, Hadley ... ..	1	F. C. Anstee ... ..	F. C. Anstee
11	188, High Street, Hadley ... ..	1	C. Allen, sen. ... ..	A. J. Southam

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**SCHEDULE III.—Continued.**

	Description of Property.	Stints Claimed.	Owner.	Occupier.
12	182, High Street, Hadley	1	W. Ager	H. J. Carter
13	180, High Street, Hadley	1	W. Ager	W. Ager
14	178, High Street, Hadley	1	J. Barrell	Palmer & Son
15	176, High Street, Hadley	1	J. Barrell	J. Prior
16	Nesbitt's Alley, Hadley	1	S. Philp	A. Cullip
17	Nesbitt's Alley, Hadley	1	W. James	A. White
18	Nesbitt's Alley, Hadley	1	W. James	Mrs. Wicks
19	166, High Street, Hadley	1	Mrs. Schmidt	C. Page
20	164, High Street, Hadley (Site)	1	T. J. Pearson	Vacant
21	162, High Street, Hadley	1	— Metzgar	H. Sharp
22	148, High Street, Hadley	2*	J. Walker's Executors	J. Walker
23	146, High Street, Hadley	1	Miss Tidmarsh	A. Nunneley
24	142, High Street, Hadley	2*	Mrs. Coltman	T. Grosvenor
25	179, High Street, Hadley	1	Mrs. James	S. A. Hughes
26	181, High Street, Hadley	1	Mrs. James	Mrs. Cambers
27	183, High Street, Hadley	1	G. W. N. Miller	W. Finch
28	185, High Street, Hadley	1	G. W. N. Miller	T. Baston
29	193, High Street, Hadley	1	Prior, Reid & Co.	A. White
30	195, High Street, Hadley	1	E. Lucas	E. Lucas

NOTE.—The Claims distinguished by an asterisk\* in Schedules I. and III. are those to which the Report refers as having been increased by one right, in consequence of the wording of the Rules of 1886 being at variance with that of the original Rules.

MONKES HADLEY,  
November 10th, 1902.

For the Committee,

F. A. MILNE, Chairman.