



CHAPTER clxxv.

An Act for the Prevention of Encroachments upon the Malvern Hills, and for other purposes. [28th July 1884.] A.D. 1884.

WHEREAS there are in the counties of Worcester and Hereford tracts of land forming part of or near to the Malvern Hills which were formerly part of the forest or chase of Malvern which tracts of land or some parts thereof are or are reputed to be subject to certain commonable rights :

And whereas by a decree made by the Court of Exchequer in Michaelmas term in the seventh year of the reign of His Majesty King Charles the First upon an information exhibited in the said court by His Majesty's Attorney-General on behalf of His said Majesty against the several lords freeholders copyholders tenants inhabitants and commoners of and within the several manors townships lands tenements and hereditaments within or near the said forest or chase of Malvern in the counties of Worcester Hereford and Gloucester it was decreed (among other things) that one-third part of the waste or commonable lands lying or being within the said forest or chase as well known by the name of the Bishop's Chase as by the name of the King's Chase should be set out and divided as therein mentioned from the other two parts thereof and be held and enjoyed by His Majesty His heirs successors and assigns in severalty freed and discharged from all manner of common claims of common and other interest or demands therein and that the other two parts should remain and continue unto and amongst the commoners and be held by them in common according to their several rights and interests discharged from His Majesty's game of deer there and of and from the forest laws and the liberties and franchises of forest and chase in such sort as by the said decree doth appear :

And whereas after the said decree the said forest was legally disafforested :

And whereas in the term of Trinity in the 8th year of the reign of His said Majesty a bill of review was exhibited in the said court

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by certain of the defendants and others praying that the said decree might be reversed. And by a decree made by the said court dated the 19th of November in the 8th year of His said Majesty after reciting the herein-before recited decree as herein-before recited and a certain order of the Court of Star Chamber dated the 5th of September 1632 the said Court of Exchequer did order declare and decree that the true meaning of His Majesty and of those that had formerly dealt for the country was that none of the lands of the said forest or chase being parcel of the said waste or commonable land either called by the name of the Bishop's Chase or the King's Chase should be taken in or enclosed but only His Majesty's third part for the use of Sir Cornelius Vermuyden and his heirs and assigns or His Majesty His heirs and successors and that the other two-third parts should be from thenceforth and for ever left free for the freeholders and tenants and commoners to take their common of pasture and common of estovers therein as theretofore they had been accustomed. And that no mean lords of fees or manors or other freeholders or owners whatsoever or the King's Majesty His heirs successors or assigns or any person or persons claiming from by or under them or any of them should enclose any part of the two other third parts of the said grounds were the same lying within the township or parish of Hanley Castle or elsewhere within the said chase or should fall any of the woods or trees growing or to be growing thereon whereby the commoners might be hindered of their estovers and it was thereby ordered and decreed that the said order of explanation now in recital should be held and construed to be part of the said decree firstly herein-before recited and in all things observed and performed on either side as part thereof :

And whereas by an Act passed in the 16th year of the reign of His late Majesty King Charles the Second intituled "An Act for Confirmation of the Inclosure and Improvement of Malvern Chase" after reciting among other things that His said Majesty King Charles the First was pleased to consent to the disafforestation of the forest or chase of Malvern in the counties of Worcester Hereford and Gloucester according to several treaties and agreements for that purpose between His said Majesty and the several lords freeholders tenants inhabitants and commoners of and within the several manors townships lands tenements and hereditaments within or near the said forest or chase as therein mentioned And reciting the said information in the Court of Exchequer and the making of the said decree in Michaelmas term in the seventh year of King Charles the First and the disafforestation of the said forest or chase and the setting out and enclosure of His Majesty's third part It was enacted among other things that the said decree so made for the division enclosure and disafforestation of the said

forest and chase of Malvern and all proceedings had thereupon or in pursuance thereof should be ratified confirmed and allowed and should be good effectual and binding in law against the King's Majesty His heirs and successors and all the respective lords freeholders copyholders tenants inhabitants and commoners of and within the said several manors townships lands tenements and hereditaments therein their heirs successors and assigns severally and respectively according to their several and respective estates and interest any law custom or usage to the contrary in any wise notwithstanding: And it was further enacted that certain persons therein named or referred to should hold and enjoy the lands tenements and hereditaments set out and allotted unto His Majesty in pursuance of the decree above recited according to the several grants and estates to him or them made of the same discharged of and from all manner of common claim of common or other interest or demands whatsoever as well of the said lords freeholders and tenants aforesaid as of all others within the said forest or chase and also that the said lords freeholders tenants and commoners interested in the said premises their heirs successors or assigns respectively according to their several and respective estates and titles to the same should and might have hold and enjoy the said other two parts residue of the said wastes as also their ancient enclosed grounds and severals within the said forest and chase freed and discharged from the game of His Majesty his heirs and successors deer and of and from all forest laws jurisdictions and charges whatsoever and of and from all other interests claims and demands by or from His Majesty His heirs or successors:

And whereas notwithstanding the said decrees and the provisions of the said Act numerous enclosures and encroachments have at various times and recently been made upon portions of the said waste or commonable land formerly within the said forest and not forming part of the King's third as herein-after defined and it is desirable as well in the interest of the freeholders tenants and commoners entitled to common rights on the said land as for the benefit of the public that provision should be made for the prevention of encroachments and enclosures upon and of injury to the said tracts of land and also for the management of the same:

And whereas John Vincent Hornyold, Thomas Charles Gandolfi Hornyold, Benjamin Bright, Stephen Ballard, Thomas Griffiths Peyton and the Ecclesiastical Commissioners for England claim to be respectively entitled to certain of the lands made subject to this Act and it is expedient that in consideration of the provisions with respect to those lands which are mentioned in this Act certain reservations affecting the said lands should be made as in this Act set forth:

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And whereas the freehold and copyhold tenants of the several manors formerly part of or within the said chase are or claim to be entitled to certain common rights including rights of estovers in or over the aforesaid tracts of land or parts thereof :

And whereas the lands described in the Third Schedule to this Act form part of what is commonly known as "Malvern Hills" and some of those lands are comprised within the King's third and it is expedient that the said lands described in the said Third Schedule should be preserved for the use and enjoyment of the public subject to and in accordance with the reservations and provisions hereinafter contained :

And whereas it is expedient that provision should be made as in this Act set forth :

But the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited as the Malvern Hills Act 1884.

Interpretation.

2. The following words and expressions shall in this Act have the meanings herein-after expressed (that is to say) :—

"The Conservators" means the Conservators appointed for the purpose of this Act.

"Parish" where not otherwise expressed means a parish or place for which a separate poor rate is or can be made.

"Vestry" means the ratepayers of a parish meeting in vestry according to law.

"Person" includes a corporation.

"Ratepayers" includes all persons who under the provisions of the Poor Rate Assessment and Collection Act 1869 are deemed to be duly rated.

"The lands subject to this Act" means the lands described in the First Schedule to this Act and shown on the deposited map so far as the same are thereon coloured green and brown together with any lands hereafter made subject to this Act under the provisions herein-after contained.

"The Land Commissioners" means the Land Commissioners for England.

"The King's third" means the land set out and divided from the other two-thirds as aforesaid to be held by His Majesty King Charles the First.

3. And whereas a map has been prepared for the purposes of this Act and signed by Sir Arthur Otway Baronet the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred and deposited in the Private Bill Office of the House of Commons and such map is in this Act referred to as the deposited map Therefore within one month after the passing of this Act copies of the deposited map shall be deposited for public inspection with the respective clerks of the peace for the counties of Worcester and Hereford and the Act of the session of the seventh year of King William the Fourth and the first year of Her Majesty (chap. 83) "To compel Clerks of the Peace and other persons to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament" shall so far as applicable apply to the said deposited map and extracts from or copies thereof.

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As to copies
of deposited
map.

4. The provisions of the Commissioners Clauses Act 1847 with such exceptions and alterations as are specified in the Second Schedule hereto shall be incorporated with this Act and shall apply to the Conservators herein-after appointed as if they were a body of commissioners within the meaning of the said Act.

Incorporating
Commissioners
Clauses Act,
1847.

5. Conservators shall be appointed for the purposes mentioned in this Act and shall be a body corporate by the name of the Malvern Hills Conservators with power to hold and manage lands. The Conservators shall be appointed as herein-after expressed:

Appoint-
ment of
Conser-
vators.

Five by the vestry of the parish of Great Malvern.

One by the person or persons for the time being entitled either beneficially or in trust to receive the rents and profits of Blackmore Park in the county of Worcester.

Two by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district or ecclesiastical parish of West Malvern.

One by the vestry of that part of the parish of Mathon which forms the ecclesiastical parish or district of West Malvern.

Two by the vestry of the parish of Colwall.

One by the person or persons entitled either beneficially or in trust to receive the rents of the Winnings the Court and the Grovesend estates in the parish of Colwall.

One by the lord or lady of the manor of Great Malvern for the time being but only from and after the time when by virtue of any such consent as herein-after provided the waste lands of the said manor shall have become subject in perpetuity to all the provisions of this Act.

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One by the Ecclesiastical Commissioners for England for the time being or their successors in title for the time being as lords of the manor of Mathon and the manor of Bosbury Colwall and Coddington respectively. Provided that if the said two last-mentioned manors shall hereafter become vested in different persons then the lords of the said two manors shall appoint alternately but so that the lord of the manor of Mathon shall have the appointment on the vacancy which shall first occur after the two manors shall have so vested in different persons as aforesaid.

One by Benjamin Bright and his successor in title for the time being as lord or lady of the manor of Farley and beneficial owner of the Malvern Wells and Colwall and Mathon estates,

And from time to time as every vacancy shall arise in the said body a new Conservator shall be appointed by the person or persons or vestry entitled to make such appointment as herein provided so that the said body shall as soon as may be after every such vacancy be made up to consist of such number of persons and appointed in such manner as is herein expressed.

Duration of
office.

6. One of the original Conservators to be appointed by the vestry of the parish of Colwall and one of the original Conservators to be appointed by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district or ecclesiastical parish of West Malvern and three of the original Conservators to be appointed by the vestry of the parish of Great Malvern shall go out of office at the expiration of two years from their respective appointments and the Conservators shall at their first meeting to be held in the year 1885 determine by lot as between the several Conservators appointed by the said respective vestries which of such Conservators respectively shall so go out of office. Save as aforesaid every Conservator shall hold office for three years from the date of his appointment.

Election of
Conservators.

7. For the purpose of electing the Conservators to be appointed as aforesaid by the vestry of that part of the parish of Mathon which is not within the ecclesiastical district of West Malvern and by the vestry of that part of the parish of Mathon which forms such ecclesiastical district respectively each of the said several parts of the parish of Mathon shall be deemed to be a parish by itself and the ratepayers thereof may meet in vestry in the same manner in all respects as if they were the inhabitants of a parish and every such meeting shall be deemed to be a vestry and be subject to the Act of the 58th year of King George the Third chapter 69 and the Acts amending the same and the overseers of

the parish of Mathon shall be deemed to be the overseers of the said respective parts of that parish. A.D. 1884.

8. The several vestries herein-before authorised to appoint Conservators shall proceed to make their respective appointments within three months after the passing of this Act and at all times after the expiration of such three months the Conservators who shall from time to time have been appointed and be holding office shall notwithstanding any vacancies in the said body of Conservators be competent to exercise all the powers and shall have vested in them all the rights by this Act given to or vested in the Conservators.

Conservators to be appointed within three months.

9. The Conservators may on their own behalf or on behalf of any freeholder or tenant of any manor or other person entitled to any rights of common or other commonable rights exerciseable upon or in any of the lands subject to this Act take any such proceedings and do any such things for or in the protection or defence of any of the said rights or for preventing or remedying any enclosure or encroachment as any person entitled to the said rights would be capable of taking and doing and for that purpose the Conservators shall be deemed to have and be entitled to all rights of common of pasture and estovers and other commonable rights upon the lands subject to this Act.

Power to Conservators to prevent encroachments, &c.

10. From and ever after the passing of this Act no enclosure shall be made or building erected on the lands subject to this Act and subject to the provisions of this Act the Conservators may at all times take all necessary measures to keep the said lands as open spaces free from enclosure and building to maintain all existing rights of common and commonable rights on and over the same and to prevent any unlawful digging stone cutting turf cutting or other injury to the said lands or the growth or produce thereof and to regulate the user and enjoyment of any rights of common or commonable rights in accordance so far as may be with the ancient customs of the forest of Malvern or other customs under which such rights are enjoyed and the Conservators may make and enforce byelaws for any of the purposes aforesaid. And (without prejudice to all other jurisdictions and remedies) any court of summary jurisdiction shall have power to require any person to abstain from enclosing or building upon any part of the lands subject to this Act not now enclosed or built upon and from suffering any new enclosure or building to continue or from committing any such injury as aforesaid.

Lands subject to Act to be preserved as open spaces.

Provided that any proceedings under the powers of this section with reference to any such new enclosure or building shall be com-

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Powers to extend to other waste lands (if any) in the parishes mentioned in schedule.

11. The Conservators may also exercise the powers conferred upon them by the two preceding sections over and with respect to all other (if any) lands in any of the parishes referred to in the said First Schedule which formerly formed part of the forest or chase of Malvern and which are subject to common or commonable rights exclusive of any lands which formerly formed part of the King's third.

Powers as to lands described in Third Schedule.

12. The Conservators may upon any part of the lands described in the Third Schedule to this Act and coloured upon the deposited map dark green and brown take all necessary measures to prevent nuisances and preserve order and may make and enforce byelaws for that purpose and they may from time to time plant protect maintain and manage trees and shrubs which trees and shrubs shall not be subject to estovers or commonable rights and make and maintain paths and roads provided that the expenses of planting such trees and shrubs and of making such paths and roads be defrayed by voluntary contributions and not otherwise. The powers of this section may from time to time be exercised by the Conservators upon and with respect to any other lands which may have been made subject to this Act under the provisions in that behalf herein-after contained.

Reservations affecting lands described in Third Schedule.

13. The lands described in the Third Schedule to this Act which are distinguished on the deposited map by the colours green and brown shall from and after the passing of this Act be and remain under the management and control of the Conservators for the use and recreation of the public subject to any subsisting rights of common or commonable rights over or affecting the same and also subject to and in accordance with the reservations and conditions in this Act set forth.

There shall be reserved respectively to the several lords of the manor or owners of the soil of lands described in the said Third Schedule and their respective successors in title such estate and interest in the soil of the said lands as is now vested in them but (save as herein-after mentioned and save as to any of the said lands which shall be taken compulsorily under any statutory power for that purpose) without any of the rights or powers incidental to the ownership thereof and there shall also be reserved to them such rights as now belong to them of digging and getting by open quarrying or otherwise any stone mines or other minerals lying within or under the said lands (except so much as is described in the second part of the said schedule and is coloured brown on the

deposited map) and of carrying away selling and disposing of such stone or other minerals for their own benefit causing as little injury as possible to the surface of the said lands in the exercise of the said reserved rights and keeping all open pits shafts and quarries securely fenced where necessary for the protection of the public but not being liable otherwise to make any compensation or other payment in respect of such workings or any damage resulting therefrom. A.D. 1884.

There shall also be reserved to the said respective lords of the manor and owners and their successors in title respectively all such rights as the said lords and owners or any of them now have to springs of water naturally flowing or arising from the surface of any of the said lands forming part of the King's third and all such powers as they or any of them now respectively have for the enjoyment thereof.

There shall also be reserved in the lines marked on the said deposited map A B and C D a right of way twelve feet wide to the owner or owners of the soil thereof and their successors in title.

14. Any pecuniary penalty claimed to be due under any byelaw made in pursuance of this Act shall be deemed to be a civil debt for the purposes of the Summary Jurisdiction Act 1879. Penalties.

15. No surveyor of highways or highway board or turnpike trustees shall search for dig or carry away gravel sand stone or other material in or from any part of the lands subject to this Act without an order (fourteen days notice in writing of the intention to apply for which shall have been left at the office of the Conservators) made by justices of the peace in petty sessions for the petty sessional division where the material is situate who may if they think fit refuse such an order or may in their order prescribe such conditions as to the mode of working and restoration of the surface as they shall think fit and the Conservators may if they think fit be heard upon any application for any such order. Restricting digging of gravel, &c.

16. All parts of the lands subject to this Act shall be deemed to be public places and places of public resort within the meaning of the statute of the fifth year of His Majesty King George the Fourth chapter 83 and the Acts amending the same and the statute of the 35th and 36th years of Her Majesty the Queen chapter 94 respectively. Lands subject to Act to be place of public resort.

17. The Conservators may if they deem it necessary from time to time appoint a keeper or keepers for the purpose of enforcing byelaws and regulations to be made by them under this Act and the provisions of sections 5 6 7 and 8 of the Parks Regulation Act 1872 shall apply with regard to such keepers and to police Powers to Conservators to appoint keepers.

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Byelaws
and pro-
ceedings.

18. The provisions of sections 182 183 184 185 and 186 and of sections 251 252 254 255 259 261 264 and 265 of the Public Health Act 1875 shall apply to byelaws to be made under this Act and to proceedings by and against the Conservators or under this Act as if the Conservators were a local authority within the meaning of the said sections and for this purpose the 184th section of the said Act shall be read as if the words "the First Commissioner of Her Majesty's Works and Public Buildings" were used therein instead of the words "the Local Government Board" and the words "this Act" in the said sections shall be read as referring to this Act and not to the Public Health Act 1875 and section 255 of the said Act shall apply with regard to any offence under this Act as if the same were a nuisance within the meaning of the Public Health Act 1875.

Contribu-
tions from
parishes.

19. Save as herein otherwise provided the expenses of the Conservators shall be paid by them out of any moneys in their hands and they may raise any moneys required for meeting such expenses in manner following and they may raise such moneys either before or after they shall have actually become liable to the said expenses. They shall apportion the amount so required among the several parishes of Colwall Mathon and Great Malvern and may raise the same by their precept to be served on the overseers of each such parish requiring them to pay the amount specified in such precept to the treasurer clerk or other officer of the Conservators and the overseers of the said parishes of Colwall Mathon and Great Malvern shall pay the same out of the poor rate of such parishes. The receipt of the officer or officers of the Conservators named in such precept shall be a good discharge for the amount so paid. Provided always that the sum required by any such precept in any one year shall not exceed the amount which would be produced by a rate of one halfpenny in the pound and provided also that any voluntary contributions or subscriptions to be paid to the Conservators may be applied at the desire of the donors in reduction of the amount required by any such precept to be paid by the overseers of any such parish.

Limiting
powers of
Act over
manor and
parish of
Great
Malvern.

20. (1) In order to preserve as open spaces free from enclosure and building the waste lands of the manor or parish of Great Malvern in the county of Worcester the Conservators may take all necessary measures to prevent or remedy any enclosure or encroachment thereon and to preserve and keep the same waste lands free from enclosure and building and (without prejudice to all other

jurisdictions and remedies) any court of summary jurisdiction shall have power to require any person to abate or remove or abstain from making or erecting any enclosure or building upon any part of the said waste lands. Provided that no proceeding of the Conservators whether under this Act or otherwise for preventing remedying or abating any enclosure or encroachment on the said waste lands shall be made or taken by the Conservators concerning any such enclosure or encroachment which shall have been made more than 12 years before the passing of this Act.

(2) The Conservators may pay all expenses incurred by them under this section out of any moneys in their hands.

(3) Except as expressly provided in this and the preceding section of this Act nothing in this Act and no byelaw or power of the Conservators under this Act shall apply to or affect any lands tenements or hereditaments of the Honourable Emily Foley commonly called the Lady Emily Foley or of her successors in title in the manor or parish of Great Malvern aforesaid or any estate interest or property within the said manor or parish of the said Lady Emily Foley or of her successors in title or of her or their lessees tenants or grantees or of any person or persons claiming through or under her or them respectively.

(4) The said Lady Emily Foley or her successors in title may at any time consent that any of her or their lands tenements or hereditaments in the manor or parish of Great Malvern shall either in perpetuity or for a limited time become subject to the other provisions of this Act and of any byelaws of the Conservators under this Act.

21. Whereas Stephen Ballard of Colwall in the county of Hereford has enclosed a piece of land in the parish of Colwall numbered 959 and 960 both on the tithe commutation map of the said parish and on the deposited map through which is made a new footpath marked on the deposited map by the letters E F and it is proposed that a new carriage drive shall be made from the Wyche along the whole line of the said footpath as marked on the deposited map:

Provisions
with refer-
ence to
Stephen
Ballard's
enclosure.

And whereas it is desirable that in consideration of the title of the said Stephen Ballard to the land so enclosed not being disputed provision should be made as herein-after set forth: Therefore the said Stephen Ballard his heirs or assigns shall if required at the expiration of five years from the passing of this Act remove that portion of the fence of the said enclosed piece of land which is on the east side of the aforesaid footpath and shall leave open and unenclosed and allow the public to use for pleasure and recreation that portion of the said enclosed piece of land which lies on the

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No trees buildings or erections which shall obstruct or interfere with the view of the distant country from the said carriage drive shall at any time after notice in writing has been given as aforesaid be placed or maintained upon any part of the said enclosed piece of land lying to the west of the said footpath nor shall any fence of any greater height than four feet be placed or permitted on the west side of the said carriage drive. And if any such tree building or erection be placed or permitted on that part of the said enclosure lying on the west side of the said footpath or if any fence of a greater height than four feet be erected or permitted on the west side of the said drive it shall be lawful for the Conservators to enter upon the said land and remove the same.

In case the said Stephen Ballard make at the request of the Conservators the portions of the said carriage drive through the said enclosed piece of land and garden and the Conservators neglect or fail to make and complete the remainder of the carriage drive within five years from the date of such request then the Conservators shall pay to the said Stephen Ballard the amount that he may have expended on his portions of the said carriage drive.

The Conservators shall not dispute the title of the said Stephen Ballard to the said piece of land so enclosed by him.

Provision as
to lands of
Lady Henry
Somerset.

22. The pieces of land in the parish of Ledbury in the county of Hereford which are numbered on the tithe commutation map of that parish and on the deposited map 310 312 and 313 to the receipt of the rents and profits of which the Honourable Isabella Caroline Somerset commonly called Lady Henry Somerset is or is reputed to be beneficially entitled at the passing of this Act and which lands also form part of what is commonly known as the range of Malvern Hills shall so long as Lady Henry Somerset shall be beneficially

entitled to the receipt of the rents and profits thereof be deemed to form part of the lands subject to this Act in the same manner and to the same extent as if the same were coloured light green on the deposited map and described in the First Schedule to this Act provided that nothing in this Act contained shall (unless by virtue of an agreement under the subsequent provisions of this Act or otherwise) in any way affect any right title estate or interest to in over or affecting the said pieces of land or any part thereof other than the estate of the Lady Henry Somerset therein.

And provided that nothing in this Act contained shall prejudice or affect any right of the said Lady Henry Somerset to open or work any quarries gravel pits or other mines or minerals in under or upon the said lands or any part thereof or to make and do all things needful for such working or to cut and carry away any timber or other trees pollards or saplings growing thereupon or to exercise any rights of sporting or pasture on or over the same. All which rights may notwithstanding this Act be exercised and enjoyed by the said Lady Henry Somerset in all respects as they might have been if this Act had not been passed.

23. And whereas parts of the land described in the Third Schedule to this Act which are under the provisions of this Act to remain open for the use and recreation of the public are or are reputed to belong to Benjamin Bright and it is reasonable that in consideration of his not objecting to the said provisions of this Act in relation to the said lands other provisions should be made as herein-after set forth: Be it therefore enacted that the Conservators shall not dispute the title of the said Benjamin Bright to enclose the following parts of the said lands viz. :—

For protection of Benjamin Bright.

(a) So much of the lands in the parish of Hanley Castle in the county of Worcester numbered in the said schedule 215 and 216 within the distance of 200 feet from the high road bounding the said lands on the east as is shown on the deposited map situate between the said road and the dotted red line.

(b) So much of the land in the parish of Colwall in the county of Hereford numbered in the said schedule 962 within the distance of 150 feet from the high road between the Wyche and the Wind's Point bounding the said land on the west as is shown on the deposited map situate between the said road and the dotted red line.

24. The Consolidated Bank Annuities and other moneys mentioned or referred to in the Fourth Schedule to this Act together with all other sums of stock or money (if any) held by the persons therein mentioned or any one or more of them in trust for the person or persons entitled to rights of common over any

Certain funds transferred to Conservators.

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As to
opening of
new quarries.

25. Before any new quarry is opened on any part of the lands subject to this Act notice in writing thereof and a plan showing the intended position of such new quarry shall be served upon the Conservators and every such new quarry shall be so placed as to cause as little injury and disfigurement to the hills as reasonably practicable and shall be fenced for the protection of the public to the reasonable satisfaction of the Conservators. But the provisions of this section shall not apply to any lands belonging at the passing of this Act to John Vincent Hornyold and Thomas Charles Gandolfi Hornyold.

Saving
rights of
lords of
Manor.

26. Nothing in this Act shall prejudice or affect any rights of any lord of any manor on or over any of the lands subject to this Act other than the lands defined in the Third Schedule to this Act except that any such lord of the manor on the one hand and the Conservators on the other hand may from time to time with the approval of the Land Commissioners enter into and carry into effect any agreement for making lands subject to the provisions or any of the provisions of this Act.

Saving
rights of
commoners.

27. Nothing in this Act shall be deemed or construed to take away prejudice or affect any right of common or commonable or other right which may at the date of the passing of this Act be exerciseable by any person or persons over or in respect of the lands subject to this Act or any other open or waste land within the ancient limits of the said forest or chase of Malvern.

Limiting
power of
Conser-
vators as to
remedying
encroach-
ments.

28. Nothing in this Act shall enable the Conservators to take any proceedings for preventing remedying or abating any enclosure or encroachment which shall have been made at any time more than twelve years before the passing of this Act but the Conservators may if they think fit enter into and carry into effect any agreement with any person or persons who may have made any enclosure or encroachment upon any of the lands subject to this Act for enabling any such person or persons to remain in possession of the whole or any of the lands so enclosed or encroached upon subject to such

terms and conditions as may be agreed between the Conservators and such person or persons. A.D. 1884.

29. For the purpose of preserving unenclosed and free from building any lands within nine miles of Great Malvern Abbey (in addition to those coloured on the deposited map) which the Conservators may regard as proper to be so preserved as part of or in connexion with the range of Malvern Hills or for the purpose of maintaining any common or commonable rights which may subsist over or affecting such lands or any of them the Conservators may either:

Power to
acquire
other lands.

- (a) Acquire by purchase or grant (whether absolutely or subject to conditions) any of such lands subject to all common or commonable rights (if any) subsisting over or affecting the same or any estate or interest therein with or without the minerals thereunder and the timber thereon or any rights privileges or easements over the same.
- (b) Enter into an agreement or agreements with any person or persons for making any of such lands subject to this Act or to any of the provisions thereof.

The Conservators by order under their seal may at any time and from time to time if they shall think fit declare that any person who shall have made any voluntary grant of such lands which shall have been accepted by the Conservators shall thereafter have for him and his heirs or successors in title to the estate of which such lands shall previously have formed part or for his life or for any term of years the right of appointing a person to be a conservator for the purpose of this Act but so that the Conservators appointed by meetings under this Act shall always form at least two-thirds of the total number of Conservators for the time being and for enabling any such order as aforesaid to be made having regard to the proviso lastly herein contained the Conservators may if they think fit at any time and from time to time by order under their common seal vary either permanently or for any period that they shall think fit the number of Conservators to be appointed by any vestries or vestry under this Act. Provided that no such order shall have any force or effect until it shall have been approved by the Land Commissioners under their common seal after such previous notice by advertisement or otherwise as they may prescribe for securing due publicity and after receiving any objections made in writing thereto.

30. Any sale or grant of lands and any agreement for subjecting lands to the provisions of this Act may be made by any corporation aggregate or sole or by any person or persons for the time being seised in fee tail or for life of and in or equitably entitled in

As to
agreement
by persons
under disa-
bility.

A.D. 1884.

possession for life or for any greater interest to such lands or by the guardians or committee of any infant or lunatic seised or entitled as aforesaid on behalf of such infant or lunatic and where any such person shall be a married woman or the husband of a married woman in her right such sale grant or agreement may be made by such married woman and her husband without any deed or acknowledgment being required and every sale grant or agreement given or made as aforesaid shall be binding upon the person or persons making the same and upon such infant or lunatic and upon all persons claiming any estate or interest in reversion or remainder expectant upon the estate or interest of such person or persons infant or lunatic or through under or in trust for such person or persons infant or lunatic: Provided always that no such sale grant or agreement made by or on behalf of any person seised or entitled only for life of and in any manor lands or hereditaments shall have effect as aforesaid unless the person or persons for the time being next entitled in remainder to the beneficial enjoyment of the same manor lands or hereditaments on the determination of such life estate or interest if there be any such person in existence and legally competent shall agree thereto.

Provision
for adding
other com-
mon or
waste lands.

31. Any common or waste lands within the said distance of nine miles from Great Malvern Abbey may be at any time and from time to time made subject to all or any of the provisions of this Act by agreement between the Conservators and the lord of the manor of which such lands form part: Provided that no such agreement shall be of force until allowed by the Land Commissioners under their seal, and upon allowing any such agreement it shall be lawful for the Land Commissioners if they shall think fit by order under their seal to vary the number of Conservators under this Act and the mode of their election and to provide for making the poor rate of any other parishes lands wherein shall become subject to this Act liable to contribute to the expenses of carrying out this Act in such manner and to such extent as the Land Commissioners shall think fit: Provided that the vestry of any parish subject to such liability shall be entitled to appoint or share in the appointment of one or more Conservators in such manner as the Land Commissioners shall determine.

Notice of
extending
powers of
Conser-
vators.

32. Any order or agreement approved or allowed by the Land Commissioners under this Act shall be published in such manner as the Land Commissioners shall direct.

Act not to
limit existing
public rights.

33. Except as expressly provided by this Act or by any byelaw made under the powers thereof nothing in this Act shall be deemed or construed to restrict any liberty or privilege which the public have hitherto exercised or enjoyed over or upon the lands subject to

this Act or any of them or to interfere with any public or common rights in or upon any open or waste land within the ancient limits of the forest or chase of Malvern. A.D. 1884. —

34. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities reserved by certain Letters Patent of the 12th day of May in the 7th year of the reign of His late Majesty King Charles the First belonging to or exercisable on behalf of Her Majesty Her heirs or successors. Saving rights of Crown.

35. With respect to any lands hereafter added to the lands described in the First Schedule hereto this Act shall take effect as from the time of such lands being so added respectively. Extension of land subject to this Act.

36. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act shall be paid by the Conservators out of any moneys in their hands. Costs of Act.

A.D. 1884.

THE FIRST SCHEDULE.

DESCRIPTION OF THE LANDS SUBJECT TO THIS ACT.

(1) Lands in the parish of Great Malvern in the county of Worcester numbered on the tithe commutation map of that parish as follows:—Part of 1 viz. so much as lies to the east of a piece of land numbered 1,692 on the tithe commutation map for the parish of Cradley 2 3 4 279 1,096 and 1,097.

(2) Lands in the parish of Mathon in the county of Worcester numbered on the tithe commutation map of that parish 886 946 956 957 958 959 960.

(3) Lands in the parish of Hanley Castle in the county of Worcester numbered on the enclosure map of that parish 215 and 216.

(4) Lands in the parish of Cradley in the county of Hereford numbered on the tithe commutation map of that parish 1,691 and 1,692.

(5) Lands in the parish of Colwall in the county of Hereford numbered on the tithe commutation map of that parish 953 954 955 956 957 958 959 960 961 962 963 964 and 965.

THE SECOND SCHEDULE.

Exceptions :

Sections 12 to 35 inclusive, 54, 96, 97, 98 and 104.

Alterations :

In section 36 the day for the first meeting of the Conservators shall be the 1st of December next after the passing of this Act, and the place and hour shall be appointed by any three of the first Conservators by writing under their hands.

In section 40 the annual meeting of the Conservators shall be held on a day to be from time to time appointed by byelaw of the Conservators; and it shall not be necessary for them to hold monthly meetings, but they shall hold a meeting at least once in every three months.

THE THIRD SCHEDULE.

FIRST PART.

Lands in the parish of Great Malvern, in the county of Worcester, numbered on the tithe commutation map of that parish as follows:—Part of 1 (viz., so much as lies to the east of a piece of land numbered 1,692 on the tithe commutation map for the parish of Cradley) 2, 3, and part of 279, viz., so much as adjoins towards the west a piece of land numbered 959 on the tithe commutation map for the parish of Mathon, and is bounded on the north-east and south by other parts of the said piece of land numbered 279.

Lands in the parish of Mathon, in the county of Worcester, numbered on the tithe commutation map of that parish 886, 946, 956, 957, 958, 959, and 960. A.D. 1884.

Lands in the parish of Cradley, in the county of Hereford, numbered on the tithe commutation map of that parish 1,692.

Lands in the parish of Colwall, in the county of Hereford, numbered on the tithe commutation map of that parish as follows: 955, 956, 957, 958, 961, 962, 963, and 964.

Lands in the parish of Hanley Castle, in the county of Worcester, numbered 215 and 216 on the enclosure map of that parish.

SECOND PART.

(Lands not to be quarried.)

The part of the lands numbered 279 on the tithe commutation map of the parish of Great Malvern, which is described in the first part of this schedule.

Part of the above-mentioned land numbered 3 on the tithe commutation map of the parish of Great Malvern, on the south-eastern side thereof, and part of the above-mentioned land numbered 959 on the tithe commutation map of the parish of Mathon, on the eastern side thereof, which parts are distinguished on the deposited map by the colour brown.

THE FOURTH SCHEDULE.

SCHEDULE OF STOCK AND FUNDS TRANSFERRED TO THE CONSERVATORS.

1. 1,165*l.* 3*s.* Three per cent. Consolidated Bank Annuities standing in the books of the Bank of England to the account of William Corner West physician John Archer gentleman John Bullock gentleman and George Hicks gentleman all of Malvern Worcestershire.
2. The sum of 310*l.* 7*s.* 7*d.* cash arising from the dividends of the above-mentioned sum of Consolidated Bank Annuities now standing at the Worcestershire Old Bank at Malvern to the credit of the said William Corner West and John Bullock.
3. A sum of 431*l.* 2*s.* cash standing on deposit account at the Worcestershire Old Bank at Malvern to the credit of Stephen Ballard, Henry Lakin and George McCann.
4. A sum of 9*l.* 18*s.* at the Worcester Old Bank at Malvern standing on deposit account in the names of Edward Archer, John Severn Burrow, John Bullock senior, John Miles Evans and Thomas Edward Lucy.
5. All dividends or interest due or accruing due on the said sums or any of them up to the time of transfer or payment.

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