

**CHAPTER lxxii.**

An Act to confer further powers upon the Malvern Hills Conservators and for other purposes. A.D. 1930.

[4th June 1930.]

WHEREAS the Malvern Hills Conservators (herein referred to as "the Conservators") were incorporated by the Malvern Hills Act 1884 and were invested with certain powers of protection control and management with regard to the lands in that Act specified and provision was made for restricting the user and enjoyment of the said lands:

And whereas the lands under the jurisdiction of the Conservators and commonly known as the Malvern Hills have been widely known and admired for their natural beauty and have formed a centre of attraction to the inhabitants of the counties of Worcester and Hereford and to a largely increasing number of visitors coming from all parts of the country for the purposes of health recreation and enjoyment and the prosperity and development of the district depend upon the preservation of the amenities of the Malvern Hills:

And whereas further powers were conferred upon the Conservators by the Malvern Hills Act 1924 for the prevention of encroachments and enclosures on the lands forming the Malvern Hills and also for the management and control of the same:

And whereas the existing powers of the Conservators are insufficient to preserve the Malvern Hills and it is desirable that further powers of protecting controlling

A.D. 1930. — and dealing with the Malvern Hills should be conferred upon the Conservators as in this Act provided :

And whereas the Conservators have under their jurisdiction the lands specified in the schedule to this Act and which lands could without detriment to the enjoyment and user of the Malvern Hills by the public be disposed of and the proceeds arising from any such transaction used in the purchase of other lands and it is expedient that the Conservators should be invested with powers for the sale lease exchange or disposition of any such lands subject to the provisions of this Act :

And whereas it is expedient that for the purposes of adjusting defining or improving the boundaries of the Malvern Hills the Conservators should have power to exchange lands for other lands :

And whereas many persons resort to the Malvern Hills on holidays and during the summer months for the purpose of recreation and enjoyment and in order to meet the convenience and requirements of such persons it is expedient that the Conservators should have power to make provision for lavatories and parking places for vehicles and to license the erection of refreshment stalls on the Malvern Hills :

And whereas it is expedient that the Conservators should have power to set apart certain lands on those parts of the Malvern Hills known as the Malvern Common and Malvern Link Common for the purpose of games and for the holding of meetings and athletic sports and to enclose temporarily parts of the Malvern Link Common for the holding of agricultural and other exhibitions or shows :

And whereas it is expedient that the other provisions contained in this Act should be enacted :

And whereas 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 King'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 :—

Act 1909 the Malvern Hills Act 1924 and this Act may be cited together as the Malvern Hills Acts 1884 to 1930. A.D. 1930. —

2. In this Act unless the subject or context otherwise requires— Interpretation.

“The Malvern Hills” shall have the same meaning as defined in section 5 of the Malvern Hills Act 1924;

“The Act of 1884” “the Act of 1909” and “the Act of 1924” mean respectively the Malvern Hills Act 1884 the Malvern Hills Act 1909 and the Malvern Hills Act 1924;

“The Malvern Hills Acts” shall mean the Malvern Hills Act 1884 the Malvern Hills Act 1909 the Malvern Hills Act 1924 and this Act;

“The Conservators” shall mean the Malvern Hills Conservators as re-incorporated by the Act of 1924;

“The council” means the urban district council of Malvern.

3. The Malvern Hills shall be regulated and managed by the Conservators under and in accordance with the Malvern Hills Acts and there shall be imposed upon the Conservators the following duties (namely):— Management of Malvern Hills by Conservators.

(a) Except as in the Malvern Hills Acts otherwise provided they shall at all times keep the Malvern Hills unenclosed and unbuilt on as open spaces for the recreation and enjoyment of the public;

(b) They shall by all lawful means prevent resist and abate all enclosures and encroachments upon and all attempts to enclose or encroach upon the Malvern Hills or any part thereof or to appropriate or use the same or the timber or roads thereof or any part thereof for any purpose inconsistent with the Malvern Hills Acts.

4. The Conservators shall have with respect to the Malvern Hills the following powers (namely):— Powers exercisable over the Malvern Hills.

(a) They may drain any part or parts of the Malvern Hills so far as they may deem necessary or desirable and they may make temporary enclosures for the purposes of this subsection and for the purpose of protecting or renovating turf;

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- (b) They may fence or cause to be fenced dangerous places;
- (c) They may make and maintain or by agreement with the local authority may make and maintain footpaths and ways over the Malvern Hills;
- (d) They may on the Malvern Hills erect sheds for tools and materials and may maintain and repair such sheds;
- (e) They may set apart from time to time on the Malvern Common and the Malvern Link Common pieces of land not exceeding in the aggregate fifty acres upon which persons may play games or hold meetings or gatherings for athletic sports;
- (f) They may from time to time enclose for a period not exceeding one month and provided that such periods shall not exceed three months in any year land on the Malvern Link Common not exceeding fifty acres in extent for the purpose of the holding of agricultural or horticultural or other exhibition circus fair or show and may let the same on such terms as they shall think fit;
- (g) They may grant leave or licence for any period not exceeding one year upon such terms as they may think fit to any person or persons to erect and maintain stalls to a number not exceeding three in all on the Malvern Hills for the purpose of purveying food and refreshment to the public:

Provided that—

- (i) no such leave or licence in respect of any stall not in existence when the licence is applied for shall be granted unless and until the person or persons applying for the licence shall have furnished the Conservators with drawings (on a scale of not less than one inch to every eight feet) of the elevations of the proposed stall or stalls together with a specification or other sufficient indication of the materials to be used in those parts of the stall or stalls which are comprised in the elevations and such elevations and materials and the site on which the stall is proposed to be erected shall have been

approved by the Conservators in consultation with the advisory panel which has been set up by the Council for the Preservation of Rural England in conjunction with the Royal Institute of British Architects for the area in which the proposed stall or stalls is or are intended to be situated; and

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- (ii) no advertisements of any kind shall be exhibited on or about any such stall so as to be visible from outside the stall whether relating to any trade or business carried on at the stall or not except that the name of the stall and of the occupier thereof may be displayed thereon once in a position not higher than the level of the lowest part of the roof of the stall in letters not exceeding eight inches in height.

5. The Conservators may with the consent of the Minister of Agriculture and Fisheries construct and maintain or may grant licence to any local authority to construct and maintain in such positions and places as the Conservators think fit either above or below ground on the Malvern Hills lavatories and public conveniences with all necessary drains and works in connection therewith and may make all necessary provision for the construction use and maintenance thereof.

Provision
of lava-
tories.

6.—(1) The Conservators may set apart any part or parts of the Malvern Hills adjoining or near any public road and may use any land or lands so set apart as parking places for motor cars and other vehicles and may provide and maintain all necessary equipment in connection therewith and may make regulations as to the use of such parking places and a copy of any such regulations shall be exhibited on or near any parking place to which the regulations relate and may make such reasonable charges for the use of such parking places as they may from time to time determine.

Parking
places for
vehicles.

(2) In this section the expression “ parking places ” means places where vehicles or vehicles of any particular class or description may wait.

7. The Conservators may grant upon such terms and conditions and for such a period as they think

Power to
grant
easements.

A.D. 1930. fit easements over or under the Malvern Hills for the purpose of the laying of drains :
—

Provided that the surface of any part of the Malvern Hills that may be disturbed in connection with the exercise of any easement granted under this section shall be restored as soon as practicable by and at the expense of the persons to whom the easement is granted.

Power to
sell or lease
land
described in
schedule.

8. Subject to the provisions of this Act the Conservators may with the consent in writing of the Minister of Agriculture and Fisheries sell lease exchange or absolutely dispose of free from any rights or restrictions any part or parts of the Malvern Hills set out in the schedule to this Act upon such terms and conditions subject to the consent of the said Minister as they shall deem expedient :

Provided that all moneys received by the Conservators in connection with the said transactions or any of them shall be paid into a special fund and applied by the Conservators as occasion offers in the purchase of other land or lands on or adjacent to the Malvern Hills such other land or lands on completion to become and be for all purposes part of the Malvern Hills :

Provided also that notwithstanding any sale lease exchange or disposal by the Conservators of the part of the Malvern Hills set out in the schedule to this Act and known as Belle Vue Island Belle Vue Terrace Malvern to any person other than the council no buildings shall at any time be erected on the said part of the Malvern Hills so sold leased exchanged or disposed of without the consent in writing of the council.

Power to
adjust
boundaries.

9.—(1) For the purpose of adjusting defining or improving the boundaries of the Malvern Hills the Conservators may by agreement and with the consent of the Minister of Agriculture and Fisheries sell or exchange any part or parts of the Malvern Hills to the extent in the case of any one sale or exchange not exceeding one quarter of an acre :

Provided in the case of an exchange that the consent of the Minister shall not be given unless he is satisfied that in the place of the land proposed to be exchanged other land not less in area and equally advantageous to the persons (if any) entitled to commonable rights and to the public is offered in exchange

and provided also in the case of a sale that all moneys received in respect thereof shall be dealt with as specified in the first proviso to the preceding section of this Act. A.D. 1930.

(2) The Conservators shall give notice by advertisement in two local newspapers whenever they shall apply to the Minister of Agriculture and Fisheries for his consent to any sale or exchange under this section and such notice shall state the time and place to which any objections in writing may be sent to the said Minister.

10.—(1) For the regulation and protection of the Malvern Hills the Conservators may make byelaws for any of the following purposes (that is to say):— Byelaws.

- (a) For prohibiting any enclosure of any part of the Malvern Hills or the erection of any unauthorised building shed tent or other structure thereon and for preventing any interference with the rights of common or commonable rights existing on or over the Malvern Hills;
- (b) For prohibiting or regulating the placing on the Malvern Hills of any photographic cart or of any show exhibition swing roundabout or other like thing and for authorising an officer of the Conservators to remove from the Malvern Hills anything placed thereon in contravention of the byelaws;
- (c) For regulating games to be played and other means of recreation to be exercised on the Malvern Hills and assemblages of persons thereon;
- (d) For prohibiting any person without lawful authority from turning out or permitting to remain on the Malvern Hills any cattle sheep pigs goats or other animals and for authorising an officer of the Conservators to remove therefrom any cattle sheep pigs goats or other animal being thereon in contravention of the byelaws or suffering from disease;
- (e) For preventing any unlawful digging or taking of stone gravel or clay or cutting or taking of turf or sods or other injury to the Malvern Hills or the growth or produce thereof;

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- (f) For regulating 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;
- (g) For prohibiting any person from placing or depositing and leaving without lawful authority any glass china earthenware tin carton or paper or other refuse or litter on the Malvern Hills so as to affect or tend to affect injuriously the public amenities thereof;
- (h) For preventing nuisances and for the preservation of order;
- (i) For authorising an officer of the Conservators after due warning to remove or exclude from the Malvern Hills any person who within his view commits an offence against the byelaws made under the Malvern Hills Acts;
- (j) For prohibiting the hindrance or obstruction of an officer of the Conservators in the exercise of his powers or duties under the Malvern Hills Acts or under any byelaws made thereunder.

(2) Provided that nothing contained in this section or any byelaw made thereunder shall prejudice or affect (except as provided by paragraph (f) of subsection (1) of this section) or take away any rights of common or commonable rights which are exerciseable by any person.

(3) From and after the passing of this Act the power of making byelaws with regard to any of the above-mentioned matters or things contained in sections 10 and 12 of the Act of 1884 is hereby repealed.

For pro-
tection of
Council.

11. Notwithstanding anything contained in this Act the following provisions shall apply and have effect for the protection of the council except so far as may be otherwise agreed in writing between the council and the Conservators (that is to say):—

- (1) The Conservators shall lease to the council for the term of ten years at an annual rent of one shilling the part of the Malvern Hills which is set out in the schedule to this Act and therein referred to as “Belle Vue Island Belle Vue Terrace Malvern” and the council may at any

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time during such term of ten years on giving three months' notice in writing require the Conservators to sell to them and thereupon the Conservators shall sell to the council the said part of the Malvern Hills for such price as may be determined by arbitration under the Lands Clauses Acts :

- (2) Before selling leasing exchanging or disposing of the part of the Malvern Hills set out in the schedule to this Act and therein referred to as "Edith Walk and the lands adjoining in Malvern" to any persons other than the council the Conservators shall give notice in writing to the council of their intention so to do and if within a period of three months after the receipt of such notice the council shall give notice in writing to the Conservators that they desire to purchase or take a lease of the said part of the Malvern Hills the Conservators shall sell or lease (as the case may be) to the council the said part of the Malvern Hills for such price or at such rent and on such terms as may be determined by arbitration (in the case of purchase) under the Lands Clauses Acts and (in the case of lease) under the Arbitration Act 1889 :
- (3) Before selling or exchanging the part of the Malvern Hills set out in the schedule to this Act and therein referred to as "St. Ann's Well" to any person other than the council the Conservators shall give notice in writing to the council of their intention so to do and if within three months after the receipt of such notice in writing to the Conservators that they desire to purchase the said part of the Malvern Hills the Conservators shall sell to the council the said part of the Malvern Hills for such price as may be determined by arbitration under the Lands Clauses Acts :
- (4) The Conservators shall not exercise the powers conferred upon them by paragraphs (d) (e) (f) and (g) of the section of this Act of which the marginal note is "Powers exerciseable over the Malvern Hills" or the powers conferred upon

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them by the sections of this Act of which the marginal notes are "Provision of lavatories" and "Parking places for vehicles" in relation to any land belonging to the council without the consent in writing of the council:

- (5) The Conservators shall not in the exercise of any of the rights or powers conferred upon them by this Act do any act or thing which may injuriously affect any reservoir or waterworks of the council or any of the lines of pipes or works of any description in connection therewith.

For protection of
Pyx Granite
Company
Limited.

12. For the protection of the Pyx Granite Company Limited (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Conservators have effect (that is to say):—

Nothing in this Act or in any byelaw made thereunder shall—

(a) confer upon the Conservators or any officer of the Conservators any powers or jurisdiction with reference to the company or their undertaking property or rights; or

(b) in any manner prejudice affect or interfere with the said undertaking property or rights.

For protection
of Great Western
Railway
Company.

13. Nothing in this Act contained shall prejudice or affect the property rights or interests of the Great Western Railway Company.

For protection of
Shropshire
Worcestershire and
Staffordshire
Electric
Power
Company.

14. Nothing in this Act shall in any way prejudice or affect any right or power of the Shropshire Worcestershire and Staffordshire Electric Power Company under the Bromyard and Ledbury Rural Electricity Special Order 1929 to place electric lines or works upon or over the Malvern Hills or any part thereof.

Saving for
ancient
monuments.

15. Nothing in this Act authorises the Conservators to demolish or remove in whole or in part structurally alter or make additions to any ancient monument as defined by the Ancient Monuments Consolidation and Amendment Act 1913 without the consent in writing of the Commissioners of Works first had and obtained.

16. Notwithstanding anything contained in this Act the following provision for the protection of Edward Albert Berry or the owner for the time being of the British Camp Hotel shall unless otherwise agreed in writing apply and have effect (that is to say) :—

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For pro-
tection of
Edward
Albert Berry.

No stall for the purpose of purveying food or other refreshments to the public shall be erected on the Malvern Hills within a radius of three hundred yards from the centre point in the highway opposite to the southern corner of the building known as the British Camp Hotel.

17. 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 twelfth day of May in the seventh year of the reign of His late Majesty King Charles the First and belonging to or exerciseable on behalf of His present Majesty His heirs or successors or affect prejudicially any estate right power privilege or exemption of the Crown.

Saving
rights of
Crown.

18. The costs charges and expenses of the Conservators 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 for the time being in their hands or out of moneys to be borrowed by them under the provisions of the Malvern Hills Act 1924.

Costs of Act.

[Ch. lxxii.]

Malvern Hills
Act, 1930.

[20 & 21 GEO. 5.]

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The SCHEDULE referred to in the
foregoing Act.

	Approximate area.	
	roods.	poles.
Belle Vue Island Belle Vue Terrace Malvern ...	—	33
St. Ann's Well	1	22
Edith Walk and lands adjoining in Malvern...	1	28
Back Lane Malvern and land adjoining ...	3	36

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